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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1942

No. 828



CLEM CUMMINGS, *Appellant*

v.

THE STATE OF MISSISSIPPI, *Appellee*



APPEAL FROM THE SUPREME COURT OF MISSISSIPPI

APPELLANT'S BRIEF

Opinion Below

The opinion of the Supreme Court of Mississippi is reported in 194 Miss. . . . and in 11 S. 2d 683. It appears also in the record at pages 130 to 144.

Jurisdiction

Jurisdiction of the Supreme Court of the United States is invoked under Section 237 (a) of the Judicial Code [28 U. S. C. 344 (a)].

Under the Act of Congress of January 31, 1928, Chap. 14, 45 Stat. 54, and under the Act of Congress of April 26, 1928, Chap. 440, 45 Stat. 466, an appeal may be taken in any case which under prior statutes could be received as a matter of right on writ of error.

Timeliness

The judgment of the Supreme Court of Mississippi was rendered and entered January 25, 1943. (R. 145) The petition for appeal and other papers required by the rules of this Court are filed within three months from the date of such judgment. R. 146-159.

The Statute

The statute, the constitutionality and validity of which is drawn in question here, is Chapter 178 of the General Laws of Mississippi duly enacted at the regular session of the Mississippi Legislature. The statute as originally enacted (House Bill 689) reads as follows:

HOUSE BILL No. 689

AN ACT to secure peace and safety of the United States and state of Mississippi during war; to prohibit acts detrimental to public peace and safety, and to provide punishment for same.

WHEREAS, The imperial government of Japan and governments of Germany and Italy, and associated nations, have expressly declared war upon these United States, a union of which the state of Mississippi is a part; and

WHEREAS, The very life and existence of these United States and the state of Mississippi are threatened by the said foreign powers, and there is now existing an acute unquestionable emergency in these United States and the state of Mississippi; and

WHEREAS, The preservation of the state of Mississippi and these United States depends upon a unity of effort on the part of all the citizens thereof, public necessity requires that the legislative department of the state of Mississippi and of these United

States shall enact all laws and do all things necessary to insure domestic tranquility and promote the common defense and general welfare of the people thereof; and

WHEREAS, All persons who either by word or deed weaken the morale or unity of our people, or adversely affect their honor and respect for the flag or government of these United States or of the state of Mississippi are a menace to the safety of this State and these United States.

NOW, THEREFORE,

SECTION 1. *Be it enacted by the Legislature of the State of Mississippi*, That any person who individually, or as a member of any organization, association, or otherwise, shall intentionally preach, teach, or disseminate any teachings, creed, theory, or set of alleged principles, orally, or by means of a phonograph or other contrivance of any kind or nature, or by any other means or method, or by the distribution of any sort of literature, or written or printed matter, designed and calculated to encourage violence, sabotage, or disloyalty to the government of the United States, or the state of Mississippi, or who by action or speech, advocates the cause of the enemies of the United States or who gives information as to the military operations, or plans of defense or military secrets of the nation or this state, by speech, letter, map or picture which would incite any sort of racial distrust, disorder,

prejudices or hatreds, or which reasonably tends to create an attitude of stubborn refusal to salute, honor or respect the flag or government of the United States, or of the state of Mississippi, shall be guilty of a felony and punished by imprisonment in the state penitentiary until treaty of peace be declared by the United States but such imprisonment shall not exceed ten years.

Sec. 2. Any person in possession of maps or parts of maps having marked thereon any industrial, storage or manufacturing plant, power or gas plant, facilities for waterworks, sewerage or sewerage disposal, transportation terminals, shops or facilities, oil and gas pumping and storage station, or government or public buildings, which may be used for information to the enemy or to aid the enemy, without proper authority, shall be prima facie evidence of the intention of such persons to violate the law and, upon conviction of such possession, shall be punished by a fine not exceeding \$1,000.00, or imprisonment in the county jail not exceeding one year, or both such fine and imprisonment.

Sec. 3. That any unnaturalized alien who is questioned on an alleged violation of the provisions of this act by a duly elected, acting and qualified law enforcement officer, and refuses to give information as his or her age, birthplace, parents, places of residence for the last five years; source, amount and extent of salary, compensation, livelihood, and means of travel, if any; marital status, or who answers falsely

any such question, or refuses to submit to fingerprinting, or who defies or obstructs the law, or any officer of the law while he is performing his duties with relation to the provisions of this act shall be guilty of obstructing justice and shall be punished therefor as now provided by law.

Sec. 4. That this act is cumulative and does not repeal or interfere with any existing law, but is in addition thereto.

Sec. 5. Except as to cases then pending in court this act shall expire after the duration of the present war.

Sec. 6. If any word, line, section or part of this act should hereafter be declared unconstitutional by the courts, such decision shall not be construed so as to render invalid the remainder of this act.

Sec. 7. That this act shall take effect and be in force from and after its passage.

Approved March 20, 1942.

The Circuit Court which is the trial court and the appellate court, the Supreme Court of Mississippi, held the statute was not unconstitutional and that it was not superseded by federal statutes on the same subject. Such courts refused to hold that the statute on its face and as construed and applied to the facts abridged the rights of freedom to worship Almighty God, freedom of conscience, of press and speech contrary to the 1st and 14th Amendments to the United States Constitution. Said courts also held that the statute was not vague, indefinite, too general and a dragnet as construed and applied.

The Indictment

CIRCUIT COURT JULY TERM, 1942 STATE OF MISSISSIPPI, WARREN COUNTY

The Grand Jurors of the State of Mississippi, elected, summoned, empaneled, sworn and charged to inquire in and for the body of Warren County, State of Mississippi, at the term aforesaid, in the name and by the authority of the State of Mississippi, upon their oaths present that Clem Cummings, late of the County aforesaid, on or before the 9th day of July, A.D. 1942, with force and arms, in the County aforesaid, and within the jurisdiction of this Court, did, then and there wilfully, unlawfully, feloniously and intentionally distribute printed matter, designed and calculated to encourage disloyalty to the United States Government, and the State of Mississippi, which said printed matter so distributed was then and there in book form, designated or entitled: "Children", and said book entitled: "Children" being attached hereto and made a part of said indictment as though copied fully herein; and various other books, leaflets and pamphlets, a further exact description of which said books, leaflets and pamphlets aforesaid is to the Grand-jurors unknown, and which said various other books, leaflets and pamphlets being attached hereto and made a part hereof as though copied fully herein, and all of which reasonably tended to create an attitude of stubborn refusal to salute, honor or respect the flag or Government of the United States, or of the State of Mississippi.

Contrary to the statute in such cases made and provided, and against the peace and dignity of the State of Mississippi.

(Signed) T. J. Lawrence
District Attorney.

Statement

Clem Cummings is one of Jehovah's witnesses, an ordained minister of the Watch Tower Bible and Tract Society. Since December 1941 he has been in full-time evangelical work of calling from house to house in the city of Vicksburg. Before entering the full-time ministry he had worked for the Illinois Terminal Railroad Company for twenty-three years at Urbana, Illinois, his native home. (R. 98, 114) He became one of Jehovah's witnesses and began preaching in 1928 in Illinois. Before that he had never belonged to any religion. (R. 98) His wife works with him full time and aids him in preaching from house to house. So does his son.

Appellant is a duly ordained minister. First by Jehovah God and secondly by the Watch Tower Bible and Tract Society, the earthly source of his ordination, which issued to him a certificate of ordination, a copy of which is in the record. When Jesus Christ was upon earth, according to the record in Luke 4: 18, He quoted Isaiah 61: 1, 2 as his heavenly or spiritual ordination of God, to wit: "The spirit of the Lord God is upon me; because the Lord hath anointed me to preach good tidings unto the meek; he hath sent me to bind up the brokenhearted, to proclaim liberty to the captives, and the opening of the prison to them that are bound; to proclaim the acceptable year of Lord, and the day of vengeance of our God; to comfort all that mourn." Appellant claims this same Scriptural authority as a footstep follower of Christ Jesus. R. 102.

The book *Children*, for distributing which appellant was indicted, tried and convicted, explains the matter thus:

"The word *ordained*, as defined by the best authority (Doctor Strong), means 'to make; to appoint; to anoint; to constitute; to commission'. Only the Lord,

therefore, could truly and properly ordain one to become a witness for Him. [page 225] . . .

“One who becomes a true and faithful servant of God and Christ, and who has received the spirit of the Lord, is ordained or commissioned to preach the good news of the Kingdom and to magnify Jehovah’s name, and hence is an ‘ordained minister’ of the gospel.

“Not only are such persons appointed and commissioned by the Lord to preach the gospel of the Kingdom, but such are emphatically commanded that they must preach the gospel of this kingdom. (Matthew 24: 14) When Christ Jesus appeared at the temple and put his consecrated followers to the test, he sent forth the approved ones to ‘offer unto the Lord an offering in righteousness’. (Malachi 3: 3) Such means that they must employ their lips and every other faculty possessed to bear witness to the truth of Jehovah’s name and his kingdom. (Hebrews 13: 15) Each one of such is appointed and commissioned to preach the good news by telling the people of the Kingdom, or THEOCRATIC GOVERNMENT. This positive command the Lord Jesus gives, to wit: ‘And this gospel of the kingdom shall be preached in all the world for a witness unto all nations; and then shall the end come.’—Matthew 24: 14. [page 226]

“All such sincere followers of Christ Jesus who obey this commandment are Jehovah’s witnesses, bearing testimony to his name and to his kingdom. No earthly power has any authority to interfere with their preaching ‘this gospel’, because they are the witnesses of the Most High, or Almighty God, acting under his commandment.” [page 227]

Clem Cummings admitted that in the performance of the above commission he used the book *Children* and other publications containing explanation of God’s Word as a substitute for oral sermons which he left at

the homes of the people. This was done, not to teach disloyalty, but rather, to assist persons of good-will toward Almighty God to have a knowledge of God's Word, the Bible, and to acknowledge the Bible and Jehovah God the Almighty as its Author and the Supreme One and Creator, and Christ Jesus as Jehovah's Great Prophet. (Deuteronomy 18: 15; Acts 3: 22, 23) (R. 98) It was not the intention of appellant to cause anybody to become disloyal or disrespectful to, or to stubbornly refuse to salute the flag. R. 98, 114.

Because of engaging in this charitable, benevolent and Christian activity the public officials of Vicksburg got stirred up. Appellant was arrested on April 11, 1942, but not charged with any specific offense. No witnesses appeared before him to complain against him. He was placed in the custody of Tom Byrd the jailer at Vicksburg. While thus incarcerated Byrd asked appellant to give him some literature. Thereupon Cummings handed the jailer the book entitled *Children* and also gave him a magazine entitled *The Watchtower*. These were given free and without charge. The jailer then asked Cummings if he would salute the flag and what was his authority. Cummings answered by quoting the Scripture, Exodus 20: 1, 5. (R. 48) Byrd testified against appellant concerning these facts and added that reading the book *Children* and listening to Cummings talk did not affect him one way or the other, did not cause him to have less respect for his government, or any less respect for the country, and that it did not cause him to have an attitude of stubborn refusal to salute the flag. While on the witness stand jailer Byrd read the book *Children* the objectionable part, to wit:

"Satan knows that his time is short, and therefore he is desperately trying to turn all persons, includ-

ing the children, against God. (Revelation 12:12,17) Therefore Satan influences public officials and others to compel little children to indulge in idolatrous practices by bowing down to some image or thing, such as saluting flags and hailing men, and which is in direct violation of God's commandment. (Exodus 20:1-5) That is why in the last few years rules are made and enforced in the public schools compelling children of the Jonadabs, who are in a covenant to do God's will, to indulge in the idolatrous practice of flag-saluting and hailing men." [page 314] R. 45, 46.

'Jonadabs' is the Biblical name prophetically used to describe today those persons of good-will toward Almighty God who take a definite and positive stand for righteousness and who the Lord Jesus said would be rewarded with life eternal on the earth because of kindness shown toward those of His brethren and followers.¹

The book was introduced in evidence. It is 368 pages in length and is filled with Scriptures from cover to cover. It is a romance in righteousness described in dialogue form between a clean, well-educated, athletic young man and an equally well-educated, beautiful and lovable young woman. In this setting with the two characters, John and Eunice, contemplating marriage they together undertake a study of the Bible. The book is a record of the explanations made to one another as they pursue this course of study. The book contains approximately 900 citations of scriptures. In this study there is revealed to them their duties, privileges, responsibilities and hopes for the future—which are very bright. They learn what they must do to survive the Battle of Armageddon. They learn of the creation of the things recorded in the first three chapters of the

¹ See Chapter 6 of the book *Children*.

Bible. That 'Jehovah created the heavens and formed the earth; He created it not in vain but to be inhabited.' (Isaiah 45:18) That mankind was created perfect, male and female, and placed in Paradise as a home, with perfect fruit, eating of which would sustain them in everlasting life on earth. That Lucifer, the 'son of morning', an angelic creature was appointed as overlord or "anointed cherub that covereth." (Ezekiel 28:13, 14) At the time of assignment to this privilege he was faithful and perfect in all his ways. (Ezekiel 28:15) That the Bible records that Lucifer became covetous and ambitious. He was egotistical and much puffed up because of the office conferred on him. (Ezekiel 28:17) He desired the worship and devotion that man was giving Jehovah. "I will ascend into heaven, I will exalt my throne above the stars of God; I will sit also upon the mount of the congregation, in the sides of the north; I will ascend above the heights of the clouds; I will be like the Most High." (Isaiah 14:13, 14) See also Isaiah 14:12-20; Ezekiel 28:11-19. This was treason in the highest degree. To carry out the conspiracy to turn man away from Almighty God he resorted to deception and told the first lie (John 8:44), by persuading man to partake of the forbidden fruit, and said: "Ye shall not surely die." (Genesis 3:3, 4) This resulted in forfeiture of the right to everlasting life and condemnation to ultimate death. Thus all children ever after were born subject to this judgment and they too in time did die.

Satan then challenged Jehovah that he as overlord of mankind could cause every man of every generation to curse God. God accepted the challenge and has given Satan an opportunity to prove it.

Thereafter Jehovah God caused to be recorded the history of His witnesses, including the nation of Israel and all his faithful servants and prophets operating

under this challenge. All human creatures being free moral agents have been left with the responsibility to choose whom they will serve, Satan or Jehovah. Satan's challenge and the voluntary acceptance thereof by Jehovah's witnesses in all ages has brought much suffering, distress and sorrow upon them but proved Jehovah to be truthful and the Devil a liar. It proved that God can put men on earth who will maintain their integrity. Jehovah did not leave mankind in this condition without hope. He promised and did send a redeemer of mankind from such judgment, who also proved His integrity under persecution and received the reward of being invisible king of THE THEOCRACY, the government of righteousness, to be fully established in the earth in due time. Throughout the centuries Satan has developed a strong invisible opposition government that controls the nations of mankind. (2 Corinthians 4:4; Ephesians 6:12) The history of centuries of ~~this~~ rule is filled with accounts of violence, oppression and deprivation of the rights of conscience.

That Jehovah God is now taking out from among all nations of the earth a people for His name, Jehovah, described as the meek. "The meek shall inherit the earth." (Psalm 37:9-11) This takes place 'at Armageddon' when the Devil's organizations are destroyed off the face of the earth and instead thereof the kingdom of Christ Jesus permanently established by Him, not man. (Daniel 2:44) Through this Redeemer-King all obedient persons will be restored to paradise, which the original man lost, and live eternally on the earth in peace—of which more is said later.

This same message of God's kingdom as the only hope of humanity has been preached throughout sixty centuries in opposition to the religious precepts of Godless rulers who have brought much woe upon Jehovah's witnesses during all those centuries.

In the book Jehovah's witnesses of today are identified as no members of any sect or cult but that they are that group of Christians selected out of the world by Almighty God and are not subject to any human organization or human power and that their primary allegiance is to Almighty God, whom they must obey. Abel is described as the first witness for Jehovah and all faithful prophets of Jehovah from the day of Abel to John the Baptist, all of whom lived prior to Jesus, are specifically named as witnesses at Hebrews chapter 11. It shows that faithful servants of Jehovah since the beginning of time have been in the minority and bitterly persecuted, mocked, scourged, beaten, stoned, hanged and otherwise killed, and torn asunder by the popular majority of their time for the reason that said witnesses obeyed God rather than man. It is pointed out that at all times those who have indulged in reproaching the name of Almighty God and Christ by persecuting of God's witnesses have been and are those persons who indulge in and practice religion. Religionists killed Jesus, stoned Stephen and put faithful Christians to death ever thereafter. The religious dictator of Germany is described as the leading modern-day persecutor of true Christians, Jehovah's witnesses. A distinction is made between religion and Christianity. The former is following in the course mapped by precepts of men while the latter is taking the course dictated by the unadulterated word of Almighty God, the Bible, and following in the footsteps of Jesus. Religionists claim to follow Christ Jesus. Their course of action proves they do not, but follow the Devil. The Christian proves his faith by his works and practices what the Bible teaches by preaching God's kingdom message continuously, publicly and from house to house, faithfully and unto death, regardless of all opposition.

The foregoing history of religious persecution of

Christians is then brought down to modern date in the United States showing how Jehovah's witnesses have been arrested, mobbed and beaten in the land of the free and the home of the brave because of their refusal to violate their covenant to preach God's kingdom message and their refusal to violate their conscience. The facts notoriously known concerning the expulsion from school and the denial of public education to many thousands of children are mentioned. In this setting the objectionable portions of the *Children* book are found, page 314, which are the words objected to by the complaining witnesses. Following the "objectionable" statement is admonition of the Lord to parents as to their responsibility of educating their children in the Word of God—to teach them to faithfully keep their covenant and deal honestly, morally, justly and righteously with all with whom they come in contact and, above all, to honor the name of Jehovah regardless of the cost.

The reward for their faithfulness in thus preaching the good news or gospel is the joy of seeing the name and word of Almighty God vindicated in the destruction of all His enemies in His battle at Armageddon and their own miraculous deliverance by Jehovah. This final act will result in the opening up of the earth to the expansion of God's kingdom in completeness under Christ Jesus, the invisible King in heaven, when the earthly visible part of such government of righteousness will be ruled over by the resurrected *faithful men of old*, the witnesses mentioned in the 11th chapter of Hebrews, who are described as *princes in all the earth*. (Psalm 45: 16; Isaiah 32: 1) Under such earthly government of Jehovah God the people will be restored to health, perfection of body and mind, have unending life, and enjoy everlasting peace and prosperity.

The earth was never filled with a righteous and per-

fect race because of Adam's transgression before bringing forth children. It is God's intention that the earth shall be filled with a perfect and righteous race of people. The privilege of thus filling the earth will be granted to those now on the earth who survive that greatest of all battles at Armageddon. They shall marry and bring forth children and subdue the earth, beautify it by cultivation, landscaping its surface under the Creator's supervision until the entire globe is transformed into a veritable paradise as was the Garden of Eden. All who live will praise Jehovah God, the Eternal One. Thus ends the book *Children*.

The delivery of the book by appellant to the jailer was made the basis of the prosecution instituted against appellant. At the preliminary hearing the jailer testified against appellant. The book was shown by the jailer to George E. Hogaboom, the Chief of Police of Vicksburg, who attended the preliminary hearing also. The chief of police said that the contents of the book did not cause him to "think any less of his country." R. 61.

At the preliminary hearing additional evidence was given against the appellant by the "peace" officers and the prosecuting attorney and the magistrate presiding. This proceeding is best described by Judge Alexander in his dissenting opinion, to wit, "It is of interest to note in this connection that this 'symptom' was revealed by the resourcefulness of the prosecutors who at the preliminary hearing displayed in the courtroom a large American Flag and at an opportune moment requested all present to stand and salute. The convictions of appellant were thus 'smoked out' when he remained seated and became at once a witness to his convictions and for the state." R. 58.

The state claimed that in the midst of this ceremony when called upon to salute and during the explanation

that followed the appellant said, 'We are teaching not to salute the flag and we refuse to salute it.' (R. 63) Appellant denied this emphatically. (R. 101, 110) It is noticed that the literature does not teach others not to salute the flag. The book and booklets *explain the reason why Jehovah's witnesses cannot salute the flag*. No one is told not to salute. All are accorded the right and privilege of saluting who desire to salute. Of this Judge Alexander said: "Both the book and the appellant himself, while professing allegiance to and respect for the flag, conceded the right of non-adherents to follow their own convictions. A careful reading of this book [*Children*] fails to impress me that it teaches dishonor to the flag but respect for a faith." R. 133.

Appellant remains separate and apart from the world as a minister of Jehovah God by refusing to participate in political activity and refusing to influence in any way the governments of this world. It was testified that the literature was not subversive of the United States Government. Appellant did not discuss or raise the flag-salute question with the people when approaching them but confined his conversation to preaching the gospel. When the question was brought up by others he always gave a ready answer. (R. 101) Since the indictment does not allege any violation of the statute by oral statement but confines the prosecution to the literature a summary of the evidence on such oral statements will not be necessary. R. 4.

The record is silent as to any testimony showing that anyone read the book and was influenced thereby to assume an attitude of stubborn refusal to salute the flag. There is no evidence that anyone even tended in that direction by reading the literature. R. 48, 61, 65.

History of Proceedings and Federal Questions Raised Below

CIRCUIT COURT PROCEEDINGS

Appellant filed and urged a motion to quash the indictment (R. 11-14), which was overruled and exception allowed. (R. 15) A demurrer to the indictment was duly filed and urged (R. 7-11), which was overruled and exception allowed. R. 11.

Appellant pleaded "not guilty". R. 41.

At the close of the State's evidence appellant filed a motion for peremptory instruction requesting the trial court to exclude all the evidence and instructing the jury to return a verdict of "not guilty" (R. 15-18), which was overruled and exception allowed. (R. 19) At the close of the entire case and when both parties had rested their case, appellant duly filed a motion for directed verdict, requesting the court to exclude all the evidence and direct the jury to return a verdict of "not guilty" (R. 29-32), which was overruled and exception allowed. R. 33.

Under grounds 1 and 2 of the motion to quash (R. 12-13), the demurrer (R. 8), motion for peremptory instruction (R. 16-17), and motion for directed verdict (R. 30-31) appellant attacked the statute on the grounds that on its face, by its terms, and as construed

and applied it abridged the rights of freedom of speech, press and of worship of Almighty God, contrary to the First and Fourteenth Amendments to the United States Constitution. R. 12-13; 8; 16-17; 30-31.

Under grounds 4 and 5 of the motion to quash (R. 13), the demurrer (R. 9), motion for peremptory instruction (R. 17), and motion for directed verdict (R. 31) appellant attacked the statute as being unconstitutional because, on its face and as construed and applied, it was and is vague, indefinite, too general, a dragnet and permitted speculation, all of which violated Section 1 of the Fourteenth Amendment to the United States Constitution. R. 9; 13; 17; 31.

SUPREME COURT OF MISSISSIPPI PROCEEDINGS

In the Supreme Court of Mississippi, under assignments of error numbers 1, 2, 3 and 4 the appellant complains respectively of the error of the trial court in overruling the motion to quash, the demurrer, the motion for peremptory instruction and the motion for directed verdict. (R. 148) Under grounds 9 and 10 of the assignments of error it is claimed specifically that the

trial court should have held that the statute on its face and as construed and applied abridged the rights of freedom of speech, press and worship, contrary to the First and Fourteenth Amendments. (R. 149) Under ground 8 of the assignments of error it is claimed specifically that the trial court should have held that the statute was vague, indefinite and a dragnet in violation of the Fourteenth Amendment. R. 149.

The Supreme Court of Mississippi considered each one of the assignments of error above described and numbered, and overruled the same. (R. 130-131, 145) The Court held that on its face and by its terms the statute did not abridge the rights of freedom of speech and press, contrary to the Federal Constitution. The Court held that as construed and applied the rights of freedom of speech, and of press were not abridged, contrary to the First and Fourteenth Amendments. The Court held that freedom to worship Almighty God was not impaired by the conviction and judgment. R. 130-131.

Thereby the court of last resort in the State of Mississippi sustained the application of the statute to appellant and decided in favor of validity of the same.

Specification of Errors to be Urged

(1) The Supreme Court of Mississippi erred in failing to hold that the statute in question is unconstitutional on its face because, by its terms, it abridges appellant's rights of freedom of press and of speech contrary to the First and Fourteenth Amendments to the United States Constitution.

(2) The Supreme Court of Mississippi erred in failing to hold that, as construed and applied to the particular facts and circumstances of the case, the statute in question is unconstitutional because, as so construed and applied, it abridges appellant's rights of freedom to worship ALMIGHTY GOD JEHOVAH, freedom of press and of speech, contrary to the First and Fourteenth Amendments to the United States Constitution.

(3) The Supreme Court of Mississippi erred in failing to hold that, on its face and as construed and applied, the statute violates the *due process* and *equal protection* clauses of the Fourteenth Amendment to the United States Constitution because it is vague, indefinite, uncertain, too general, fails to furnish a sufficiently ascertainable standard of guilt, and enables the court and jury to speculate, and amounts to a dragnet so as to deprive appellant of liberty without equal protection and due process of law.

(4) The Supreme Court of Mississippi erred in failing to hold that there was no evidence that there existed a clear and present danger that the evils prohibited by the statute would result from the literature distributed by appellant or the words and conduct of appellant.

(5) The Supreme Court of Mississippi erred in failing to reverse the judgment of the trial court because the court should have sustained appellant's motion to quash the indictment.

(6) The Supreme Court of Mississippi erred in failing to reverse the judgment of the trial court because the court should have sustained appellant's demurrer to the indictment.

(7) The Supreme Court of Mississippi erred in failing to reverse the judgment of the trial court because the court should have sustained appellant's motion for a directed verdict filed at the close of the state's evidence.

(8) The Supreme Court of Mississippi erred in failing to reverse the judgment of the trial court because the court should have sustained appellant's motion for an instructed verdict filed at the close of all the evidence.

Points for Argument

ONE

The statute is unconstitutional on its face and as construed and applied because it abridges appellant's right of freedom of speech contrary to the First and Fourteenth Amendments to the United States Constitution.

A

Freedom of speech historically is guaranteed by the First Amendment and the states are prohibited from abridging the right by the Fourteenth Amendment.

B

Existence of a state of war does not suspend, restrict or narrow the guarantees of freedom of speech contained in the First Amendment.

C

As construed by the highest court of Mississippi the statute is not confined directly to the needs of the police power broadened over peace-time legislation, but deals with matters which at most are only indirectly connected with the war and is therefore in excess of authority.

D

As construed by the highest court of Mississippi the statute is void because it does not require a showing and finding that the language presents a clear and present danger to the war effort, protection of which is the claimed purpose of the statute.

E

There is no evidence that the language complained of constitutes a clear and present danger that any of the evils aimed against by the statute will result, and the undisputed evidence further shows that there was no reasonable tendency of appellant's conduct to cause the results prohibited by the statute.

F

The judicial branch of the government rather than the legislative authority must decide when the liberty of speech must yield to the police power, and in performing this task the courts should make a deeper inquiry than when property rights are involved because presumption of validity of legislative enactments does not overcome guarantees of the First Amendment.

G

The cases discussed show that the rule this court applies does not warrant the abridgment of the right of free speech under the facts and circumstances revealed in this case.

T W O

The statute is unconstitutional as construed and applied because it abridges appellant's right of freedom to worship Almighty God by preaching the gospel of God's Kingdom, contrary to the First and Fourteenth Amendments to the United States Constitution.

A

Freedom to worship Almighty God is guaranteed by the First Amendment and the states are prohibited from abridging this right by the Fourteenth Amendment.

B

Since appellant's method of preaching and the way of worshiping Almighty God is by visiting the people at their homes and discussing the Bible with them, the foregoing freedom to worship is a *basic issue* in this case and it cannot be judicially declared irrelevant or not involved.

C

No abuse of the exercise of the right of freedom to worship Almighty God is shown by the facts so as to warrant an interference under the statute.

D

Speech and writings which contain opinion relating to interpretation and fulfillment of prophecy, the relation between the Creator and the creature and the duties imposed by conscience should be given the fullest protection possible against interference by statute, so long as there is no clear and present danger of open violence, or a violation of the laws of property or morality.

E

There is no evidence that the activity of the appellant in preaching the gospel constituted a clear and present danger that any of the things aimed against by the statute will result.

F

The oldest cases in point, recorded by the Eternal Judge in the volume of His Word, show that the words spoken and printed, here drawn in question, are proper and right and are entitled to protection because this is a Christian nation binding itself to the recognition of the supremacy of the Law of Almighty God as expressed in the Bible.

G

Many recent holdings of the courts sustain the right of appellant to distribute literature and to speak the words complained of under the guarantee of freedom to worship Almighty God.

THREE

The statute is unconstitutional on its face and as construed and applied because it abridges appellant's right of freedom of the press contrary to the First and Fourteenth Amendments to the United States Constitution.

A

The broadest possible latitude in criticism and comment on world events, national affairs, state and national governments and public officials, was intended by the framers of the First Amendment to be guaranteed to the press, in times of war as well as in times of peace.

B

The publications in question related to a matter of fair comment on present-day world events and course of action taken against Jehovah's witnesses in which the public had an interest.

C

The publications in question contained only statements made by Jehovah's witnesses as an official explanation of their attitude toward the national flag and governments of this world in defense of the charges made against them and misunderstandings resulting from false reports concerning their loyalty.

D

There is no evidence that the writings complained of constitute a clear and present danger that any of the things aimed against by the statute will result, nor 'reasonably tend' toward such result.

E

The distributor of the literature and the publisher are equally protected against application of the statute to their activity because distribution as well as publication or printing is protected.

F

As construed and applied, the statute absolutely prohibits exercise of the right of freedom of the press previously condemned by this court.

G

The cases involving publications show that the rule applied by this court does not allow abridgment of the right of freedom of the press in the circumstances shown in this case.

FOUR

The statute is vague, indefinite, uncertain, too general, fails to furnish a sufficiently ascertainable standard of guilt, permits speculation and amounts to a dragnet in the manner construed by the Supreme Court of Mississippi so as to violate the *due process* and *equal protection* clauses of the Fourteenth Amendment to the United States Constitution.

ARGUMENT

ONE

The statute is unconstitutional on its face and as construed and applied because it abridges appellant's right of freedom of speech contrary to the First and Fourteenth Amendments to the United States Constitution.

The undisputed evidence shows that appellant was exercising his right of free speech in explaining to the jailer the reason why he could not salute the flag and in quoting the Bible record of portions of God's Law at Exodus 20: 3-5 and in handing to the jailer the book *Children* which explained fully the reasons why he, as one of Jehovah's witnesses, could not conscientiously salute the American flag.

When commanded to salute the American flag by the prosecutor and magistrate at the preliminary examination appellant refused to do so and thereby exercised his right of freedom of speech.

He was convicted therefor because he exercised his right of freedom of speech and there are no facts presented in the record which warrant the abridgment of freedom of speech, and accordingly, the statute, as construed and applied to his conduct, under all the facts and circumstances, violates the First and Fourteenth Amendments for these reasons.

Insofar as the right of freedom of speech relates to the succeeding point of freedom of worship, it is discussed under point TWO.

The right of freedom of speech has been exhaustively briefed and argued under point ONE in the brief filed in the companion case of *Taylor v. State of Mississippi*, pages 23 to 77, which we incorporate by reference as though printed at length herein.

TWO

The statute is unconstitutional as construed and applied because it abridges appellant's right of freedom to worship Almighty God by preaching the gospel of God's Kingdom, contrary to the First and Fourteenth Amendments to the United States Constitution.

A

Freedom to worship Almighty God is guaranteed by the First Amendment and the states are prohibited from abridging this right by the Fourteenth Amendment.

The First Amendment to the Constitution of the United States provides that Congress shall make no law respecting the establishment of religion or abridging the free exercise thereof. The provisions of this amendment have been made applicable to restrain the abridgment of this fundamental freedom by the states in the adoption of the Fourteenth Amendment. *Cantwell v. Connecticut*, 310 U. S. 296.

The beaten and oppressed minority that fled from blood-soaked soil of Europe and escaped also the oppressive yoke of tyrant kings of Britain had clearly in mind the need for guarantees of freedom of worship, not only in the Constitution of each of the several states but also in the Federal Constitution. The failure to provide for this guarantee raised such a storm of protest amongst the Colonies that the First Amendment was speedily adopted without opposition. A casual examination of the history of the original colonies and of the conditions from which the early settlers escaped, shows a determination to guarantee, preserve and perpetuate forever freedom to worship Almighty God and freedom of religion. Considering such history, the current events of the day fresh in the minds of the authors of the federal compact, the clear intent to guard against the slightest approach toward an encroachment of these rights is

appreciated. There had been centuries of religious persecution and oppression. At times one party or religion was in power, at other times some other power or religious sect held the reins of state. The pages of history are replete with the bloody crimes of the Inquisition, the fiery stake, the rack, the massacres and other such means for suppression of heresy, to say nothing of the religious wars that drenched the continent of Europe with blood and sowed a spirit of hate.

Judge Cooley, in his *Constitutional Limitations* (8th ed., p. 960), says:

"Whatever, therefore, may have been their individual sentiments upon religious questions, or upon the propriety of the state assuming supervision and control of religious affairs under other circumstances, the general voice has been, that persons of every religious persuasion should be made equal before the law, and that questions of religious belief and religious worship should be questions between each individual and his Maker."

The Four Freedoms, a pamphlet prepared under the supervision of and released by the Office of War Information, Washington, D. C., has this to say:

" . . . A person who lives under a tyrant, and has lost freedom of speech, must necessarily be tortured by fear. A person who is in great want is usually also in great fear—fear of even direr want and greater insecurity. A person denied the right to worship in his own way has thereby lost the knack of free speech, for unless he is free to exercise his religious conscience, his privilege of free speech (even though not specifically denied) is meaningless. . . .

"The first two freedoms—freedom of speech and freedom of religion—are cultural. They are preroga-

tives of the thinking man, of the creative and civilized human being. Sometimes, as in the United States, they are guaranteed by organic law. They are rather clearly understood, and the laws protecting them are continually being revised and adjusted to preserve their basic meaning. . . .

"FREEDOM OF RELIGION

"That part of man which is called the spirit and which belongs only to himself and to his God, is the very first concern in designing a free world. It was not their stomachs but their . . . souls which brought the first settlers to America's shores, and they prayed before they ate. Freedom of conscience, the right to worship God, is part of our soil and of the sky above this continent.

"Freedom of worship implies that the individual has a source of moral values which transcends the immediate necessities of the community, however important these may be. It is one thing to pay taxes to the state—this men will do; it is another to submit their consciences to the state—this they politely decline. The wise community respects this mysterious quality in the individual, and makes its plans accordingly.

"The democratic guarantee of freedom of worship is not in the nature of a grant—it is in the nature of an admission. It is the state admitting that the spirit soars in illimitable regions beyond the collectors of customs. It was Tom Paine, one the great voices of freedom in early America, who pointed out that a government could no more grant to man the liberty to worship God than it could grant to God the liberty of receiving such worship.

"The miracle which democracy has achieved is that while practicing many kinds of worship, we nevertheless achieve social unity and peace. And so we have the

impressive spectacle, which is with us always here in America, of men attending many different churches, but the same town meeting, the same political forum.

"Opposed to this democratic conception of man and of the human spirit is the totalitarian conception. The Axis powers pretend that they own all of a man, including his conscience. It was inevitable that the Nazis should try to deny the Christian church, because in virtually every respect its teachings are in opposition to the Nazi ideal of race supremacy and of the subordination of the individual. Christianity could only be an annoyance and a threat to Hitler's bid for power and his contempt for the common man.

"Today the struggle of Man's spirit is against new and curious shackles. Today a new monstrosity has shown itself on earth, a seven days' wonder, a new child of tyranny—a political religion in which the leader of the state becomes, himself, an object of worship and reverence and in which the individual becomes a corpuscle in the blood of the community, almost without identity. This Nazi freak must fail, if only because men are not clods, because the spirit does live. In the design for a new and better world, religious freedom is a fundamental prop.

"We of the nations united in war, among whom all the great religions are represented, see a triumphant peace by which all races will continue the belief in man, the belief in his elusive and untouchable spirit, and in the solid worth of human life."

In *United States v. Macintosh*, 283 U. S. 605, 634 (1931), the Chief Justice, in the course of a dissenting opinion joined in by Mr. Justice Holmes, Mr. Justice Brandeis and Mr. Justice Stone, said:

"The battle for religious liberty has been fought and won with respect to religious beliefs and practices,

which are not in conflict with good order, upon the very ground of the supremacy of conscience within its proper field."

Blackstone says (*Commentaries*, Chase 3d ed., pp. 5-7):

"No human laws are of any validity if contrary to this [Divine law] . . . to be found only in the Holy Scriptures. . . . No human laws should be suffered to contradict these."

which is reflected by Judge Cooley (at page 968, *Constitutional Limitations*, supra):

"No external authority is to place itself between the finite being and the Infinite when the former is seeking to render the homage that is due, and in a mode which commends itself to his conscience and judgment as being suitable for him to render, and acceptable to its object."

"[pages 974-975] Whatever may be the shades of religious belief, all must acknowledge the fitness of recognizing in important human affairs the superintending care and control of the great Governor of the Universe, and of acknowledging with thanksgiving His boundless favors, of bowing in contrition when visited with penalties of His broken laws."

Freedom to worship Almighty God and especially the freedom to preach the gospel as an ordained minister of Jehovah God is recognized as a contributing factor to the foundation of a democracy. The right of freedom to preach as a minister is equally as important as freedom of the press and freedom of speech, if not more. This matter is well stated in the Constitution of the State of New Hampshire thus:

"As morality and piety, rightly grounded on evangelical principles, will give the best and greatest secur-

ity to government, and will lay, in the hearts of men, the strongest obligations to due subjection."

It is a known fact that public worship of Almighty God is a contributing factor to the vitality and life of the nation and renders more than the ordinary services of the citizenry to the Government in recognition of which the state governments and federal government have conferred special privileges upon the religious institutions and institutions of charity by complete exemption from all forms of taxation and conferring other special privileges. These institutions are hailed as conservers of the public morals and security and render indispensable assistance in the preservation of the public order.

By report of the Bureau of Census it appears that the great majority of the American people do not belong to any recognized religious organization nor attend a religious edifice for the purpose of hearing sermons. This condition establishes the great public need of individuals who are willing to volunteer their time and resources to take the study in the Scriptures into the homes of the people. As a convenience to the people thus situated, Jehovah's witnesses respond by carrying this message of the gospel of God's Kingdom from house to house and by special calls for the purpose of conducting Bible studies in the homes of the people, thus contributing greatly to the morale of the people of good will who desire to learn of and concerning God's THEOCRATIC GOVERNMENT of Righteousness—the only hope for mankind.

In the performance of that preaching obligation, appellant and all other of Jehovah's witnesses act under the command of Christ Jesus, and follow in His footsteps as did His apostles, who taught publicly and from house to house.—Luke 8:1; Acts 5:42; 20:20.

The guarantees of the constitutions of the several states and particularly the First Amendment—made applicable to the states by the Fourteenth Amendment—go further

than securing freedom merely for footstep followers of Christ Jesus to preach: such guarantees extend also to ALL religions and to worship of every kind or character, even pagan, demonistic or anti-God. The right to worship as one sees fit is thus secured against abridgment of all sorts and cannot be interfered with so long as it does not involve violation of the law of morals or immediately threaten the breach of the peace or overthrow of the government by force and violence.

While misapplying the rule, the controlling opinion of the court below states the freedom as follows: "... one may believe in and worship a Divine Being, or any ideal or thing the worshiper may think divine, under the name of Jehovah, or any other name; or, on the other hand, he is free to worship satan, a golden calf, any animal or thing, or any image of anything, real or imaginary." R. 130.

B

Since appellant's method of preaching and way of worshipping Almighty God is by visiting the people at their homes and discussing the Bible with them, the foregoing freedom to worship is a basic issue in this case and it cannot be judicially declared irrelevant or not involved.

The court below, in the controlling opinion, although recognizing the rule of freedom of worship, stumbled and erred in applying it. In the case of *Taylor v. State*, Justice Alexander, dissenting, said: "I am constrained to believe that the equal division of opinion herein is not due to a divergence of views as to the applicable law, but rather to an application of the law." See *Taylor v. State*, companion case, Record page 164.

The controlling opinion defines Christianity, religion or worship so as to exclude therefrom the "apostolic" preaching and conscientious scruples held by appellants in these three cases (Cummings, Benoit and Taylor). In the *Taylor* case the court below says: "But in this case the right [of

freedom to worship] is asserted on a false assumption. There is not conflict between the right to worship, including the teaching of such worship, and loyalty to the flag and government of one's country. . . . Without undertaking a definition, the Christian religion, in its most important ultimate aspect, recognizes, has faith in and worships a Divine Being or Spirit—one Father of all mankind—who has the power to and will forgive the transgressions of repentants and care for the immortal souls of the believers, and which belief brings earthly solace and comfort to and tends to induce right living in such believers. Its primary object is a haven of rest after 'life's fitful fever is over.'" See Taylor Record, pages 156-7.

After thus defining religion and stating some of the doctrines and religious precepts of the recognized clergy—finding no support in the Bible—the court below brushes aside the Christian contentions raised by these appellants by saying: "It is a fallacy of the rankest kind to assume that loyalty to one's country and its flag is attributing to them any aspect of divinity or omnipotent power. . . . Jesus himself announced that almost two thousand years ago. When the spies, seeking to entrap him, asked 'Is it lawful for us to give tribute unto Caesar, or no?' He replied 'Render therefore unto Caesar the things which be Caesar's and unto God the things which be God's'. Luke 20: 22, 25." Taylor Record, page 157.

Adopting the language of the Supreme Judicial Court of Massachusetts in the case of *Nichols v. Lynn*, 297 Mass. 65, 7 N. E. 2d 577, the court below further said: "The term 'religion' has reference to one's views of his relation to his Creator, and to the obligations they impose of reverence for His being and character, and of obedience to His Will. . . . With man's relations to his Maker and the obligations he may think they impose, and the manner in which an expression shall be made by him of his belief on those subjects, no interference can be permitted, provided always the laws of society, designed to secure its peace and prosperity,

and the morals of its people, are not interfered with. The flag salute and pledge of allegiance here in question do not in any just sense relate to religion. They are not observances which are religious in nature. They do not concern the views of any one as to his Creator. They do not touch upon his relation with his Maker. They impose no obligations as to religious worship. They are wholly patriotic in design and purpose. . . . The pledge of allegiance to the flag . . . is an acknowledgment of sovereignty, a promise of obedience, a recognition of authority above the will of the individual, to be respected and obeyed. It has nothing to do with religion. . . . There is nothing in the salute or the pledge of allegiance which constitutes an act of idolatry, or which approaches to any religious observance." Taylor, Record pages 157-8.

Of and concerning the views expressed in the controlling opinion in the *Cummings* case, Judge Alexander said: "By such view, the Court arrogates to itself the right to define religion for the citizen. But religion is essentially subjective. We are without right or power to say that withholding salute to the flag cannot relate to religion unless we mean our own religion." R. 138.

This rule is well expressed by Circuit Judge Parker in *Barnette v. West Virginia State B'd of Educ'n*, 47 F. Supp. 251, where he said:

"Courts may decide whether the public welfare is jeopardized by acts done or omitted because of religious belief; but they have nothing to do with determining the reasonableness of the belief. That is necessarily a matter of individual conscience. There is hardly a group of religious people to be found in the world who do not hold to beliefs and regard practices as important which seem utterly foolish and lacking in reason . . . and for the courts to attempt to distinguish between religious beliefs or practices on the ground that they are reasonable or unreasonable would be for

them to embark upon a hopeless undertaking and one which would inevitably result in the end of religious liberty."

See, also, to the same effect, *State v. Smith*, 155 Kans. 588, 127 P. 2d 518, and *Bolling v. Superior Court*, 133 P. 2d 803, decided January 29, 1943, by Supreme Court of the State of Washington.

It is not for the Court to pass upon the question as to whether or not the salute to the flag is regarded as a religious ceremony by Christians and thus violative of their consciences, nor may the Court determine whether that belief is reasonable or unreasonable. So long as such conscientious belief is not in conflict with the law of morality, it is the duty of this Court to protect Christians so believing in the full enjoyment of their rights. If courts are permitted to indulge in the question of reasonableness of beliefs and practices, the freedom guaranteed in the Bill of Rights would depend upon the individual and personal (i. e., private) view of judges as to the matter pending and thus would be ever changeable and the people would be utterly deprived of freedom to worship Almighty God. There is no persecution more galling nor which wounds more deeply than does "religious" persecution. A conscientious person feels that any unwarranted interference with his right to worship Almighty God according to his own choice is that kind of wrong which is hardest for him to bear.

In the *Taylor* case, the right of the constitutional liberty to preach is necessarily involved in considering the oral statements claimed to have been made by appellant Taylor, which were denied. It was during the course of a discussion by Taylor upon a Bible subject that they were alleged to have been made. These statements therefore would be admittedly made in the course of preaching and necessarily there is drawn into question the constitutional freedom to preach. Therefore it was improper for the court below to say that 'the question of religious freedom is not involved here.'

The statement contained in the booklet *God and the State*, that Jehovah's witnesses sincerely believe that for them to indulge in the formalism and ceremony of saluting any flag is a violation of God's specific command, is a part of a written dissertation of the various scriptures pertaining to this question, which supports the view of appellant Taylor and other of Jehovah's witnesses.

The quotation from the booklet *Refugees*, that all nations of earth are under the influence of the devil and his hosts of demons is necessarily connected with the preaching of the gospel because Christ Jesus when on earth made the same statement, as did also His apostles. In John 12:31, Satan is identified by Jesus as the "prince of this world". In John 14:30 he is again so identified by Jesus. When the devil offered to Jesus, in exchange for worship, the kingdoms of this world, Jesus did not dispute the devil's rulership over the 'present evil world'. (Matthew 4:8-10; Galatians 1:4; Ephesians 2:2) Paul the apostle of Jesus Christ referred to the devil as the "god of this world" (2 Corinthians 4:4), and to the devil and his spiritual allies as the rulers of this world: Ephesians 6:11, 12. At Revelation 11:15-19, concerning events at the end of the world, it says "the Kingdom of this world is become the kingdom of our Lord and of his Christ; and the nations were angry, and God's wrath has come."—*American Revised Version*.

What was true in the days of Jesus and His apostles is just as true of and concerning all governments that have existed since that time. There is no indication that Satan, invisible to human eyes, has abdicated his over-lordship and rulership of all such governments. Therefore it must be true that such continues to this very day, and to the final end of the "old" or present evil world. Had Jehovah, the God of justice, mercy, power and loving-kindness asserted His supreme power in supervising and controlling the governments of the world, they would have been administered wisely, justly and in righteousness, and unselfishly for the benefit of all the people. The facts which are undisputed

by the pages of secular history of all governments show that great injustice has been practiced against the people, that the governments have not been wisely administered, but special favors have been shown to a few while the majority have been oppressed and have suffered dire distress. "When the righteous are in authority, the people rejoice: but when the wicked beareth rule, the people mourn." —Proverbs 29: 2.

This condition that we now find in evidence is much the same as that under the mighty Nimrod, the first dictator, who gathered his subjects into cities and forced the development of commercialism which was used to enrich the political state and bear it up financially, augmented by recognized religionists of that day. (Genesis 10: 8-10) A strong-arm squad was organized and aggressive wars of conquest were carried on against neighboring nations. Men became awed at the power of the State and worshiped and feared it instead of God, even as the originator thereof did not fear God, but placed himself *before* God in importance. This caused the people to forget God and His Government, showing that the very first government established by man after the flood was set up under the influence of the devil and was totalitarian-controlled. This type of authoritarian or corporate state is now seen to exist in other lands and is rapidly moving forward to acquire *world domination* for suppression of the people's liberties and the re-establishment of the *papal* or "Holy" Roman Empire, a totalitarian government, subject to the same control as was the first corporate state under Nimrod.

The physical facts, together with the scriptural prophecy, should persuade any reasonable mind that Almighty God was not and is not the ruler of the "world" but such rule is exercised by Satan, the devil. (Ephesians 2: 2) This is the theme of the booklet *Refugees* (based entirely upon the Scriptures), distributed by appellant's companion, Taylor, as a means of preaching the gospel. It cannot, there-

fore, be said that this did not relate to his freedom to preach and worship Almighty God.

In the booklet *End of Axis Powers—Comfort All that Mourn*, complaint is made concerning the statement that Jehovah's witnesses are neutral in the controversy between the "king of the north" and the "king of the south", and keep themselves entirely aloof from the warring factions of this world. This is the identical position taken by those named in the long list of Jehovah's witnesses recorded in the Bible Book of Hebrews at chapter 11, all of whom "so-journed", "dwelling in tabernacles", looking forward to "a city which hath foundations [The THEOCRATIC GOVERNMENT], whose builder and maker is God", and who because of their staunch faith in that Government and its Builder suffered cruel mockings, were stoned and sawn asunder and persecuted as "strangers and pilgrims on the earth." These refused in all this to abandon their covenant obligations to Jehovah God and to participate in the controversies of the world as it then existed.

Objection is made by the State that *if* everybody in America took this position that the safety of the nation would be in danger. In answer to this it can be reliably stated that if ALL persons in America were Jehovah's witnesses, Almighty God Himself would fight their battles for them and protect His people as He did in times of old. Witness the destruction of the Midianites before Gideon and his band (Judges, chapter 7); the destruction in one night, by one of Jehovah's mighty angels, of 185,000 Assyrians encamped before the walls of Jerusalem. (2 Kings 19:35) Those who have faith in God immediately call to mind the act of God in destroying before His people the nations of Moab, Ammon and Edom, (2 Chronicles, chapter 20) and the destruction of the one-million-man army which attempted an assault against Judah under the faithful King Asa. (2 Chronicles, chapter 14) Many other instances are recorded in the Scriptures showing how JEHOVAH protected and fought for obedient ones in a covenant with Him.

The primary reason for the position thus taken by Jehovah's witnesses is that all their time, money and even life itself is dedicated to the cause of serving the Almighty God in the proclamation of His Kingdom of Righteousness as the only hope for mankind. Everything they own or possess (including their time and praise and worship) belongs to Jehovah God, the Almighty One. Should they not thus exclusively worship and praise Him by proclaiming His message given them to deliver, but rather indulge in the political controversies between the nations, God would surely destroy them as "covenant breakers".—Ezekiel chapters 3 and 33; 17: 18, 19; Amos 3: 2; Matthew 23: 38; Acts 3: 22, 23.

The booklet *End of Axis Powers—Comfort all that Mourn* contains this message of God's Kingdom as the only hope from the distress upon the people. It also shows that the axis powers will come to their end and none will help them. With millions of people not attending any church or religious organization and having no source of spiritual comfort, it is vitally necessary and of great convenience that they receive this message in their homes conveniently brought to them by Jehovah's witnesses.

In the case at bar, Cummings handed the jailer the book *Children* for the purpose of explaining his views on the Bible and to preach "this gospel of the kingdom" (Matthew 24: 14) and he quoted the Scripture Exodus 20: 3-5 as his answer to the inquiry of the jailer as to his refusal to salute the flag. The book *Children*, containing the statement that public officials have attempted to compel little children of Jehovah's witnesses to indulge in idolatrous practice of saluting the flag, contrary to God's commandments and expelling children from school for their refusal to violate their consciences, makes such statements on scriptural authority and it cannot be said that such did not relate to the conscientious beliefs and opinions of Cummings with respect to the obligation which he owed to His God and therefore must be accepted as preaching the gospel.

It is plain that certain members of the Supreme Court of Mississippi substituted their own individual, *private* opinion as to what constitutes worship for that of another individual, which those members had no right to do, and inflicted punishment by contemptuously casting aside the indisputable evidence showing that the activity in question involved freedom of worship.

The right to worship Almighty God includes the right to preach, to teach and to explain to others one's views. If this constitutional guarantee did not include this, then it would be impossible for one to "practice what he preaches". It would be impossible for an organization to gain members or to spread its message and extend its field of activity. Calling from house to house cannot be said *not* to be a proper manner of preaching the gospel, because that is the way Jesus and His apostles preached. One who follows in the footsteps of Jesus and the apostles must spread the gospel from house to house. (1 Peter 2:9, 21) If the people are met at the homes and the literature is thus distributed and any of such persons show an interest, it is proper and a part of that preaching activity to make a return visit and discuss these matters more extensively and explain any questions in the mind of the one called on, and to "comfort all that mourn". (Isaiah 61:2) Thus all persons of good will can take their stand with God's Kingdom and live. One should be always ready with an answer to any interested and inquisitive person to display the hope that is within him (1 Peter 3:15) by honestly and frankly answering all questions and explaining the Truth of God's Theocracy as the only means of obtaining peace, prosperity, happiness and everlasting life.—Acts 4:11, 12.

Since the days of the American Revolution it has ever been the judicial concept that the courts have no authority to say that a particular act of worship is not "religious" or a true act of worship of Almighty God, or that the particular activity does not involve a "religious" question. To say a "religious" question is not involved in this case and

companion Taylor and Benoit cases is to ignore all the evidence. The undisputed evidence shows that it was solely because they preached the gospel that they were prosecuted. The only question for the Court to determine, as Judge Parker said (*Barnette et al. v. W. Va. State B'd of Educ'n*, supra) is whether or not the practice presents a clear and present danger that some interest which the government can properly protect will be seriously endangered. This rule was well stated by Thomas Jefferson in the *Virginia Statute for Religious Freedom* (Virginia Code, Section 34):

“that to suffer the civil magistrate to intrude his powers into the field of opinion, . . . is a dangerous fallacy which at once destroys all religious liberty’, and ‘it is time enough for the rightful purposes of civil government for its officers to interfere when principles break out into overt acts against peace and good order’.”

The Mississippi Supreme Court approached these tender, delicate questions involving the most precious of all civil liberties in a backward and improper fashion: because they themselves could not see that the salute to the flag involved a religious ceremony, they immediately concluded that there was no question of freedom of worship involved. In the performance of this task they did not follow the sage counsel of this Court in *Schneider v. State*, 308 U. S. 147, “*In every case, therefore, where legislative abridgment of the rights is asserted, the courts should be astute to examine the effect of the challenged legislation.*”

How can a court determine the effect of the challenged legislation without weighing and appraising the facts and circumstances presented in the case? It was necessary for the court to determine whether or not any of the rights that could be protected by the state would be immediately invaded by the worshiping and preaching activity of Taylor, Cummings and Benoit. This the court failed and refused to do. Because the statute was nominally directed at sub-

versive activity the court below refused to consider the question of whether or not it had been applied to facts and circumstances which were themselves protected by the First and Fourteenth Amendments. It was the duty of the court below to determine whether or not the statute had been applied so as to abridge constitutional rights. *Concordia Fire Ins. Co. v. Illinois*, 292 U. S. 535, 545; *Oney v. City of Oklahoma City*, 120 F. 2d 861; *South Holland v. Stein*, 373 Ill. 472, 26 N. E. 2d 868; *Dahnke-Walker Milling Co. v. Bondurant*, 257 U. S. 282; *Yick Wo v. Hopkins*, 118 U. S. 356, 373-374.

In determining this question the Supreme Court of Mississippi skipped over the matter of conscience entirely and disposed of the question by speedy conclusion that "the right is asserted on a false assumption", which the Court had no authority to do.

C

No abuse of the exercise of the right of freedom to worship Almighty God is shown by the facts so as to warrant an interference under the statute.

It is not contended that the acts and conduct on the part of appellant involved a violation of the law of morals or imperiled the peace of the state or advocated the overthrow of the government by force and violence.

It must be conceded by all that none of the appellants, Cummings in this case and Taylor and Benoit in the companion cases, advocated any such thing. Therefore the case of *Davis v. Beason*, 133 U. S. 333, relied upon by the court below and that of *Reynolds v. United States*, 98 U. S. 145, which involved the practice of bigamy under the guise of religious belief, are not in point and do not support the conclusion of the court below. Since the record fails to disclose any evidence of the existence of circumstances, doctrines or practices that violate the law of morals, or imperil the peace and safety of the nation, the application of the statute here cannot be sustained.

D

Speech and writings which contain opinion relating to interpretation and fulfillment of prophecy, the relation between the Creator and the creature and the duties imposed by conscience, should be given the fullest protection possible against interference by statute, so long as there is no clear and present danger of open violence, or a violation of the laws of property or morality.

It has been a fundamental rule of long standing that the people of this land can have and must have free discussion on any subject of public interest. This is more particularly true in the field of religion and worship of Almighty God than in any other, because men are born and raised in some particular religion and rarely give consideration to whether or not the doctrines taught therein find support in the Scriptures. They would spend their entire life in error were it not for the privilege of discussing and hearing discussed and reading literature upon the Holy Bible.

There are many different religions, but there is only one true worship of the Almighty God that is dictated in the Scriptures and it is the desire of every honest person to obtain the Truth with respect to the obligations which he owes the Creator, for this is the only way to obtain life. To worship means to serve. How can one serve and understand to serve unless he be enlightened? Because of the divergent creeds and doctrines taught by the various religious sects, all of which disagree and vary one from another, it is essential that the people be given the needed opportunity to hear the Truth, and it is incumbent upon God's servants in a covenant with Him to do so, to make such needful information available to those sighing and crying for righteousness.—Ezekiel 9:4; Psalm 97:11.

The rule that only a limited field of discussion was allowed with respect to matters pertaining to the Scriptures prevailed only during, and in days prior to, the Inquisition.

With the Reformation came enlightenment with press, speech and discussion and revolution against the narrow, stagnant ideas of darkness. In this condition "protestantism" was born and spread to other continents. That "protest", let it never be forgotten, was against *papal world domination*. Many sects arose and endured great persecution until they came to power, when the pendulum swung in the other direction and they became the persecutors of other minorities or "non-conformists". The British Isles were no exception. When "state religion" came to power in that land, it persecuted Catholics and others to the extent that many fled and came to the bleak shores of this continent and hewed out of the forests the beginning of this nation dedicated to the proposition that all men should be free especially with relation to the discussion of matters pertaining to the proper worship of Almighty God.

Because brave and noble men—real servants and witnesses of Jehovah—indulged in the criticism of the established religion in the days of the Inquisition and taught doctrines considered "seditious" and "subversive" by the Holy Roman Empire, they were killed, burned at the stake, excommunicated and tortured by every conceivable means known to the minds of demonized men, whose philosophy was that all who would not submit to their nefarious designs should suffer the severest penalties.

In the "days of darkness" and prevailing religious prejudice men feared "witches" and burned suspected old women both in Britain and in the Colonies. In 1692 a campaign against "witches" in and around Salem, Massachusetts, led to the arrest of hundreds of innocent persons, the hanging of nineteen and the pressing to death of another. It is the proper function of freedom of worship in order to free men from the bondage of fears that the very greatest latitude be given to liberty of expression, opinion, doctrine and precept, regardless of whether it touches on political, commercial or religious matters, otherwise the pulpit would become subject to the dictates of the state and thereby lead

to the dreaded union of church and state, contrary to the intentions of the founders of this nation.

Today in totalitarian lands no pronouncement dare be made from the pulpit that is out of harmony with the principles of regimentation, so the people can be kept in blindness and further oppressed and used as beasts of burden to maintain the corporate state. A government founded upon such principles and saddled upon the people under such conditions can last no longer than the tyranny and fear of man holds. Truth can never be injured whether it be on a matter of government, politics or the Bible, so long as liberty of expression is allowed. This same thought is well expressed by Milton in "Areopagitica"; blind though he was, he had a greater insight in all things affecting human rights—more than did many persons with good eyesight. (Mark 8:18) Of limiting freedom of worship he said: "Well knows he who uses to consider, that our faith and knowledge thrives by exercise, as well as our limbs and complexion. Truth is compared in Scripture to a streaming fountain; if her waters flow not in a perpetual progression, they sicken into a muddy pool of conformity and tradition. A man may be a heretic in the truth; and if he believe things only because his pastor says so, or the assembly so determines, without knowing other reasons, though his belief be true, yet the very truth he holds becomes his heresy. There is not any burden that some would gladlier post off to another, than the charge and care of their religion. There be, who knows not that there be? of Protestants and professors, who live and die in as errant and implicit faith, as any lay Papist of Loretto. . . .

" . . . And though all the winds of doctrine were let loose to play upon the earth, so truth be in the field, we do injuriously by licensing and prohibiting to misdoubt her strength. Let her and falsehood grapple; who ever knew truth put to the worse, in a free and open encounter? Her confuting is the best and surest suppressing. . . . For who knows not that truth is strong, next to the Almighty; she

needs no policies, nor stratagems, nor licensings to make her victorious, those are the shifts and the defenses that error uses against her power: give her but room, and do not bind her when she sleeps."

Witch hunting is no longer sanctioned. The suspicions and hatreds of Salem have ceased. Neighbors no longer inveigh against neighbors through fear of the "evil eye"—except in Mississippi. Among all the competing doctrines of the various conflicting sects of religion, the people must choose that which appears most acceptable to their consciences. They cannot make an independent choice as to any unless they be enlightened. They can only be enlightened as to the inconsistencies of these religious precepts through free worship and service of Almighty God, guaranteed to His servants who carry His message of Truth from house to house. When this is destroyed they have no such right. Almighty God says in Isaiah 1:18, "Come now, and let us reason together." There cannot be reason and discussion between neighbors if the population is terrified with the sedition statute staring them in the face that can be used to inflict severe punishment and internment as criminals for the exercise of their right of expression of opinion. This statute provides this useful instrument for those that would oppress the people. This reactionary move against liberal discussion could well result in the *banning of the Bible* and any Bible literature such as has been done in totalitarian countries, particular attention being drawn to Spain where 110,000 Bibles imported by consent of Franco's government from England in 1941, were seized and ground up to make cellulose. It is a known fact that hysteria seeks an avenue of change and distraction when the attention of the people is turned from the protection of civil liberties on the "home front" to the defense of the nation on the battle front. In such times there is an even greater reason to preserve inviolate these fundamental rights. In *De Jonge v. Oregon*, 299 U. S. 353, Mr. Justice Hughes said:

"These rights may be abused by using speech or press or assembly in order to incite violence and crime. The people through their legislatures may protect themselves against that abuse. But the legislative intervention can find constitutional justification only by dealing with the abuse. The rights themselves must not be curtailed. The greater the importance of safeguarding the community from incitements to the overthrow of our institutions by force and violence, the more imperative is the need to preserve inviolate the constitutional rights of free speech, free press and free assembly in order to maintain the opportunity for free political discussion, to the end that government may be responsive to the will of the people and that change, if desired, may be obtained by peaceful means. Therein lies the security of the Republic, the very foundation of constitutional government."

President Roosevelt in an address on December 15, 1941, declared: "We will not under any threat or in the face of danger surrender the guarantees of liberty our forefathers framed for us in the Bill of Rights. We hold with all the passion of our hearts and minds to those commitments of the human spirit."

The noble utterances of President Wilson at the beginning of the war with Germany are clearly recalled: "An unwillingness even to discuss these matters produces only dissatisfaction and gives comfort to the extreme elements in our country which endeavor to stir up disturbances in order to provoke government to embark upon a course of retaliation and repression. *The seed of revolution is repression.*"

The founding fathers saw fit to provide exemption for those that refused to take oaths and others who refused to remove their hats were tolerated. Why cannot this same liberality be allowed today to Jehovah's witnesses? If this law be sustained, then it is impossible for one constitu-

tionally to explain any matter of conscientious objection that he might have, based on proper grounds, to the doing, or the refusing to do any act. Under this statute one could easily be convicted for explaining the reason why he was a conscientious objector to military service and held in his possession a classification as such from the Selective Service System, and this in spite of the provisions of the Selective Training and Service Act concerning those so situated. There is no law requiring a person to salute the flag, but, in Mississippi, if one should explain the reasons of conscience felt in his heart and dictated by the law of Almighty God, as to why he could not so salute, he has violated the law and is subject to severe punishment for 'inciting disloyalty and creating an attitude of stubborn refusal to salute the flag'. The unreasonableness of the law is demonstrated in the fact that a person can be disloyal and not be prosecuted, one can be a conscientious objector and not be prosecuted, but if he were to discuss these matters with another person or were to refuse to salute the flag when requested to do so, he could very easily be convicted.

The *American* attitude on all such matters of conscience is well expressed by General Washington, in a letter to General Lafayette in connection with conscientious refusal of officers of a Virginia brigade to take an oath of allegiance to the Union, where he said:

"As every oath should be a free act of the mind founded on the conviction of the party of its propriety, I would not wish in any instance that there should be the least degree of compulsion exercised, or to impose my opinion in order to induce any to make it of whom it is required. The gentlemen therefore who sign the paper will use their own discretion in the matter and swear or not swear as their conscience and feelings dictate."—Sparks, *Life of Washington*, Vol. 5, p. 366.

Mr. Justice Reed, in *Jones v. Opelika*, 316 U. S. 584, said:

"To proscribe the dissemination of doctrines or arguments which do not transgress military or moral limits is to destroy the principal bases of democracy, —knowledge and discussion. One man, with views contrary to the rest of his compatriots, is entitled to the privilege of expressing his ideas by speech or broadside to anyone willing to listen or to read. Too many settled beliefs have in time been rejected to justify this generation in refusing a hearing to its own dissentients."

In Colonial days the Quakers were familiar with the rigors of persecution. They were unmercifully hounded from place to place. President George Washington was not ashamed to assist their cause. In a communication he declared that liberty of worship belonged to them as a *right*, and not a mere privilege grudgingly tolerated. He said:

"Government being, among other purposes, instituted to protect persons and consciences of men from oppression, it certainly is the duty of rulers, not only to abstain from it themselves, but according to their stations to prevent it in others. The liberty enjoyed by the people of these States of worshipping Almighty God agreeably to their consciences is not only among the choicest of their *blessings* but also of their *rights*."

—*Old South Leaflets*, No. 65, p. 7.

We do not contend that freedom of worship protects one who, under the guise of "religion", licenses himself to violate all the laws that are right and just, but we do say

that it is the law, and should be announced by this Court to be the law, that any speech which has as its purpose a discussion of the Bible prophecies or the religious doctrines and precepts of men, or anything pertaining to conscience, should be granted the most extensive protection that is permissible in an ordered society. Of course the fraudulent use of religion as a subterfuge shield to carry on subversive activity presents a different question, but here it cannot be contended that the speech, writings, beliefs and practices do not rest upon the most sincere bases.

How can a Christian minister of the gospel discharge his duty which he owes to Almighty God and to the people in the State of Mississippi without being branded a criminal? He cannot conscientiously do so in that state, although, as one of the American states, it is her duty to protect Christians within her boundaries and to foster and aid the preaching of the gospel of God's Kingdom. None of the founding fathers intended to establish the United States Government or the government of any state as a substitute for God's Kingdom. All such men had faith and confidence in Almighty God and in His promises and looked forward with earnest expectancy to the establishment of God's Kingdom and daily prayed the prayer that is on the lips of every true Christian: "THY KINGDOM COME. THY WILL BE DONE, AS IN HEAVEN, SO IN EARTH." (Luke 11:2) They considered the American government as a haven and a place of refuge from the oppressors until the day of Armageddon be past, when the people of earth will be liberated forever from the perpetrators of oppression by "the Sun of righteousness [arising] with healing in his wings" and establishing the divinely promised Kingdom. (Malachi 4:2; Luke 11:2) This government ceases to be such a haven when the officials are allowed to convict the advocates of God's Righteous Theocratic Government of the crime of sedition for declaring the nearness thereof and advising the people how they may obtain its benefits.

E

There is no evidence that the activity of the appellant in preaching the gospel constituted a clear and present danger that any of the things aimed against by the statute will result.

A search of all the sedition cases will fail to reveal one that is based on evidence so slight, trivial and weak as this one. If appellant had been the terrible revolutionist and seditionist he is pictured to be by the so-called "peace officers" that had him in custody, it seems that witnesses would have been produced to testify as to his activity, but not one person was produced against him, except the police officers who obtained all their evidence from questioning the accused while in custody and who were present at the time the flag-salute ceremony at the preliminary hearing was held. If appellant was guilty of sedition, then he committed it while in the custody of the police officers. The undisputed evidence is that the police officers who testified against him as to the statements made said that they were not influenced by any statements made or any statements contained in the literature. Refusal to salute a flag, even in the presence of the police officers or a crowded courtroom, does not present a clear and present danger that others will become disloyal or that others would assume an attitude of stubborn refusal to salute the flag. If anything, such would create an attitude of resentment and a clear and present danger that the appellant would be severely injured or killed, by mob violence. The usual custom when one of Jehovah's witnesses refuses to salute the flag is that he will be mobbed and beaten by the frenzied, pseudopatriotic flag-wavers demanding the salute. There is no showing that anyone was influenced by any statement alleged to have been made by Clem Cummings. There is no showing by any witness that the statements contained in the literature caused them to have an attitude of stubborn refusal to salute the flag or that it tended in the slightest or remotest degree to

create such an attitude on the part of the reader. The undisputed evidence is overwhelmingly to the contrary.

It cannot be presumed that the literature or the oral statements made would reasonably tend to produce such an attitude or create disloyalty, for to allow the judgment of conviction to rest upon a presumption would be to presume the appellant guilty, which is contrary to the system of American jurisprudence. The State wholly failed to establish any evidence whatsoever as to clear and present danger.

Jehovah's witnesses do not go around talking about the flag or raising the issue, but when the issue is raised by others in the form of an inquiry, reason, honesty and justice would dictate that Jehovah's witnesses cannot be convicted of sedition for describing that their attitude toward such salute to the flag is based on the Scriptures. If one can be convicted of sedition for distributing a book of the character in question—*Children*—then by force of reason one could easily be convicted for distributing the Word of Almighty God, the Bible, and especially if he pointed out the scriptures on vital subjects. If one pointed out Acts 4: 19, 20, 29; 5: 29, 32, he would make himself liable to prosecution under the sedition statute of Mississippi because such scriptures would reasonably tend, according to the prosecution and the State, to cause disloyalty to the government. The reading or calling attention of another to John 15: 19; 17: 14-16 and 18: 36 could also be made the subject of an indictment and judgment, internment the preacher for the duration of the war, not to exceed ten years, because inciting disloyalty to the nation. The reading of Daniel 2: 44 could 'reasonably be calculated to encourage violence, sabotage or disloyalty to the government' because such scripture furthers the establishment of God's Kingdom. Also the repetition of the Lord's Prayer could be held seditious for the same reason. *According to the State of Mississippi, the Bible is seditious.* Deuteronomy 5: 9 and Exodus 20: 3-5, according to that state, constitute seditious utterances against the gov-

ernment, *when read or uttered in that state*, because they create an attitude of stubborn refusal to salute the flag. The extreme ends to which the people may be swept away from liberty by this statute which depends for its enforcement upon the whim and opinion of the party in power, is manifest. There are many things today that could be regarded as seditious under this statute, which present a far greater danger to the safety of the nation than does the explanation of the reasons why Jehovah's witnesses refuse to salute the flag. For instance, many of the states, in their constitutions, provide that no person shall be compelled to render military service or bear arms, contrary to his conscience. Such states include Alabama, Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Missouri, New Hampshire, New York, North Carolina, Oregon, South Carolina and Tennessee. The reading of such constitutions in the State of Mississippi could easily be held seditious under this statute.

It is the uniform custom of all courts to require the taking of an oath, but universally—by custom or statute—specific exemption has been made to dispense with swearing and permitting a person to substitute some form of affirmation acceptable to his conscience.

We call attention to the fact that the Selective Training and Service Act of 1940 provides for the specific exemption of conscientious objectors, but if one were to explain the reason for taking his position as a conscientious objector under the Act in the State of Mississippi, he could easily be convicted for sedition.

There are many thousands of men, such as Quakers, Mennonites, and others that advocate and teach conscientious objection to military training and service. The Quakers could easily be *outlawed* in the State of Mississippi by the use of this statute in the same manner as have been Jehovah's witnesses.

In *United States v. Schwimmer*, 279 U. S. 644, 654, this court upheld the denial of citizenship because of refusal to

bear arms for conscience' sake. This decision was by a divided court. Some of the justices dissenting included Mr. Justice Holmes, who stated:

"Some of her [Rosika Schwimmer's] answers might excite popular prejudice, but if there is any principle of the Constitution that more imperatively calls for attachment than any other it is the principle of free thought—not free thought for those who agree with us but freedom for the thought that we hate. . . . *The Quakers have done their share to make the country what it is . . . and . . . I had not supposed hitherto that we regretted our inability to expel them because they believe more than some of us do in the teachings of the Sermon on the Mount.*"

Historically it is true that there have ever been dissentients amongst the people who possessed beliefs that were "peculiar" and objectionable to the majority, but, in spite of this, the nation has accommodated the consciences of such individuals, knowing that to begin abridging the rights of the minority in respect to the matters of conscience meant opening the doors to additional and further steps that would finally assail the rights of larger minorities until all constitutional liberties would be chiseled away.

There is no weight that can be given to the argument as to whether or not the entire nation—if Jehovah's witnesses be permitted to continue to exercise their constitutional rights—would refuse to salute the American flag. That is a matter that is so vague and indefinite and so improbable, both from a practical and a Scriptural standpoint, that it cannot be contended that such a contingency would present a clear and present danger. But, be that as it may, Jehovah's witnesses have just as much right to persuade, if they can, the entire nation to see their way of thinking, as do the big, "recognized" religions of "Christendom".

The matter of conscience, and whether the people will follow after this religion, or that, or will practice true Christianity, is a matter to be determined exclusively by the people, and the fact that there is a possibility that the religious complexion of the people may change from time to time cannot be considered as presenting a clear and present danger within the meaning of a sedition statute.

If the advocacy of political principles by worldly men, who have an axe to grind, in favor of some theory of world recovery or world domination, such as *Communism*, *moral rearmament*, etc., which entirely ignore the word of Almighty God, are allowed, so long as there is no showing of clear and present danger that there will be resort to force and violence to overthrow the government, then with greater force of reasoning Christians who advocate the interpretation of the words of Jesus: "Render therefore unto Caesar the things which be Caesar's, and unto God the things which be God's" so as to allow allegiance to Almighty God and an agreement to obey all the laws of the land not conflicting therewith and which do not require them to violate the Supreme Laws of Almighty God, should likewise be accommodated by the Constitution. A far greater danger is presented in allowing the constitutional rights to communists than could ever be true from accommodating the consciences of true Christians.

The Supreme Court of Mississippi has construed the statute so as to allow a conviction. If any person should, upon reading the Bible or Bible literature distributed by appellant, at any time in the future reach the same conclusion with respect to the salute of the flag as appellant, regardless of how many years intervene from the time the book is read until the opinion is formed, the person thus distributing the literature or speaking the words could be convicted under the statute.

It is not reasonable to argue that the presence of Jehovah's witnesses in the land constitutes a clear and present danger. Jehovah's witnesses are exceedingly unpopular,

despised and hated of all nations, including the United States, as the records abundantly attest. This is not unusual or surprising. Jesus Christ's apostle Peter said, "Think it not strange concerning the fiery trial which is to try you, as though some strange thing happened unto you; but rejoice . . . If ye be reproached for the name of Christ, happy are ye." (1 Peter 4: 12-14) John, another apostle, said, "Marvel not, my brethren, if the world hate you." (1 John 3: 13) And their Master and great Example said, "Remember the word that I said unto you, The servant is not greater than his lord. If they have persecuted me, they will also persecute you; if they have kept my saying, they will keep yours also." "But beware of men: for they will deliver you up to the councils, and they will scourge you in their synagogues; and ye shall be brought before governors and kings for my sake, for a testimony against them and the Gentiles." "Blessed are they which are persecuted for righteousness' sake: for theirs is the kingdom of heaven. Blessed are ye, when men shall revile you, and persecute you, and shall say all manner of evil against you falsely, for my sake. . . . for so persecuted they the prophets which were before you." —John 15: 20; Matthew 10: 17, 18; 5: 10-12.

It is notorious that Jehovah's witnesses are placed, by public-press misrepresentation and other religious propaganda, in a position which is very revolting and sickening to others. They have been made to appear as something to be avoided, something with which the people should have nothing to do, except to try to stamp them out. The misrepresentation on the flag-salute issue and *false* charge that they are carrying on a "hate campaign", that they are communists, fifth-columnists, unpatriotic and advocating subversive doctrines, and the *false* charge that they set themselves up as the law and as self-appointed interpreters of the law, and other such malicious charges have succeeded in making the public appearance and presence of Jehovah's witnesses odious and very undesirable

in the eyes of the "high and mighty" of this world and their political, commercial and religious allies.

This "plague" does not come upon them from God, but is a smear campaign through demonized, uninformed and misguided men and is added to extreme pressure constantly put upon Jehovah's witnesses because of keeping integrity to Almighty God. As Christ Jesus was hanged between two thieves for a publicity effect, so the enemies of Jehovah's witnesses hold them before the people as criminals to satisfy the "holier than thou" crowd who use "good words and fair speeches" to "deceive the hearts of the simple" unsuspecting ones. (Romans 16: 18) Striking with such heavy blows of libel and bitter assaults, to say nothing of mob violence, certainly places Jehovah's witnesses in the eyes of the public as a very much unwanted and undesired group of Christians. (Matthew 10: 22; Zephaniah 2: 1) As in the days of the early disciples, Jehovah's witnesses today are spoken against. "As concerning this sect, we know that every where it is spoken against." (Acts 28: 22) They are just as unpopular as the Christians in the days of the Roman Empire.

It may be contended by the State that because Jehovah's witnesses are hated and persecuted there is a clear and present danger of injury—because they persist in preaching the Gospel—at the hands of the rabble element who seek to do them violence and that such condition presents a clear and present danger warranting the internment of Jehovah's witnesses "for the duration". In other words, the State argues that it is necessary to take Jehovah's witnesses into *protective custody*.

Mob violence is by no means a modern thing. It has ever been the practice of the religionists and those who hate Light and Truth to resort to violence when their commands are not complied with. A mob gathered outside the house of Lot in Sodom and threatened the destruction of the house and inhabitants because Lot protected his unknown visitors. (Genesis 19) The faithful apostle Paul, who followed the

rule, "We ought to obey God rather than men," was mobbed, beaten and stoned and otherwise persecuted on numerous occasions for refusal to deviate one bit from his covenant with Almighty God. (2 Corinthians 11:25-28; 6:5; Acts 16:22, 23; 13:50; 17:5; 21:30, 31; 14:19) See also 2 Kings 6:13-18; Genesis 4:8; Numbers 14:6-10.

We submit that such arguments do not constitute clear and present danger within the meaning of the Constitution because statutes of this sort when applied to the lawful and proper exercise of press activity are unconstitutional. See the case of *Dearborn Pub'g Co. v. Fitzgerald*, 271 F. 479, where the court said:

"If it be assumed that the article might tend to excite others to breaches of the peace the reply is plain. It is the duty of all officials charged with preserving order and peace to suppress firmly and promptly all persons guilty of disturbing it, and *not forbid* innocent persons to exercise their lawful and equal rights. . . .

"If defendants' acts were sustained, the constitutional liberty of every citizen freely to speak, write and publish his sentiments on all subjects, being responsible only for abuse of that right, would be placed at the mercy of every public official who for the moment was clothed with authority to preserve the public peace and the right to a free press thus destroyed. . . ."

The Court can take judicial notice of the above facts and readily reach the conclusion that there is no clear and present danger that the vast majority of the American population will immediately be affected by the activity of Jehovah's witnesses and thereby assume an attitude of stubborn refusal to salute the American flag. *This dreadful misrepresentation makes it impossible for Jehovah's witnesses to make a public defense of themselves except through their own publications*, and certainly it cannot be claimed to be seditious for Jehovah's witnesses to make this de-

fense of their own name and activity as servants of Jehovah God (Isaiah 43:10-12) before those persons of good will among the people who desire and have the right to know the Truth.

Certainly the making of this defense does not present a clear and present danger nor is it the doing of any act which is within the prohibition of the statute.

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The oldest cases in point recorded by the Eternal Judge in the volume of His Word, show that the words spoken and printed, here drawn in question, are proper and right and are entitled to protection because this is a Christian nation binding itself to recognition of the supremacy of the Law of Almighty God as expressed in the Bible.

Under the old Roman Law, sedition was considered as treason. It was known as *lese majestas*. The term "sedition" emanates from the Latin word *sed*, which means "aside", and the word *ire*, "to go," and means "a going apart" or "dissension" in the law, "an attempt to disturb the tranquillity of the state". There are many sedition cases recorded against the Christians under the Roman Law, but before we discuss such, it would be well to consider the earlier sedition case against Jehovah's servant Jeremiah.

That prophet was accused of treason and sedition against the government of ancient Jerusalem, the capital city of Judah, because he called their attention to their derelictions at the command of Jehovah God. He declared the judgments of the Lord against the "city called by my name", as being against the Lord and controlled by the Devil and violating the commandments of the Lord and subject to destruction at the hand of the Lord unless they repented. This greatly stirred up the officials—prophets, priests and princes—of that government and they declared, "This man is worthy to die; for he hath prophesied against this city." Jeremiah, in the presence of his accusers, refused

to discontinue the proclamation of Jehovah God's message and said, "Jehovah sent me to prophesy against this house and against this city all the words that ye have heard. Now therefore amend your ways and your doings, and obey the voice of Jehovah your God; and Jehovah will repent him of the evil that he hath pronounced against you. But as for me, behold, I am in your hand: do with me as is good and right in your eyes. Only know ye for certain that, if ye put me to death, ye will bring innocent blood upon yourselves, and upon this city, and upon the inhabitants thereof: for of a truth Jehovah hath sent me unto you to speak all these words in your ears." Jeremiah was given a suspended sentence, and later on imprisoned by the king for continuing his prophetic work, but even in prison he continued to utter the words commanded by God for him to deliver. On release he ceased not from proclaiming the judgments, and on the insistence of the princes he was cast into a miry dungeon where he was denied bread and water, but from whence he was delivered from the hands of his enemies by the hand of Jehovah.—Jeremiah, chapters 25, 26, 32, 33, 38.

When Christ Jesus was on earth he advocated God's Kingdom as the only hope of the world and prophesied that by His faithfulness He would be the king of God's Theocratic Government. Because of His preaching, the religionists conspired to have Him killed for making seditious utterances. They sent their spies to trap Him. (Mark 12: 13-17) Realizing the conspiracy, His astute answer to the spies frustrated the conspiracy for a time. Finally the religionists and allies took the law into their own hands and, in a mob, seized Him and took Him to Pilate, after having given Him the "third degree" in the priest's house. "And they began to accuse him, saying, We found this fellow perverting the nation, and forbidding to give tribute to Caesar, saying, that he himself is Christ a King. And Pilate asked him, saying, Art thou the King of the Jews? And he answered him and said, Thou sayest it. . . . And they were

more fierce, saying, He stirreth up the people, teaching throughout all Jewry, beginning from Galilee to this place." (Luke 23:2-5) After a preliminary examination Pilate found that there was no evidence to hold Christ Jesus, but the Jews in a great multitude, led by the clergy, demanded that Christ be crucified for sedition and that the murderer and seditious Barrabas be released from prison as was the custom at that period of the year. (Luke 23:4, 13-23) "And from thenceforth Pilate sought to release him: but the Jews cried out, saying, If thou let this man go, thou art not Caesar's friend: whosoever maketh himself a king speaketh against Caesar." (John 19:12) Pilate thereupon submitted to the religionists, because of the pressure exerted, found Christ guilty of sedition, sentenced him to be crucified between two thieves (Luke 23:13-25), while the chief priests and officers and rabble element cried, "We have no king but Caesar".—John 19:15.

Immediately thereafter the apostles and disciples were falsely accused of various charges and repeatedly arrested and brought before the courts for preaching the gospel and they, persistently following the course mapped out for them by Christ Jesus, continued to say, "Whether it be right in the sight of God to hearken unto you more than unto God, judge ye." They were thrown into prison several times in Jerusalem because they advocated God's Kingdom and declared "We ought to obey God rather than men." Many were imperiled, imprisoned and some killed, including Stephen.—Acts 7.

It was during this time that Saul, a lawyer, and renowned Pharisee (Acts 26:5) and commissioned prosecutor of the Christians, was miraculously converted to be a follower of Christ. (Acts 8 and 9) While on a preaching tour of the Roman Empire, Saul (now named Paul) was seized and taken before the magistrates at Philippi for causing 'exceeding trouble' to the religionists in the city 'teaching customs not lawful to receive and contrary to the Roman law'. Paul and his companion were found guilty, stripped

and lashed and cast into prison and placed in stocks, for their 'seditious' utterances. When the magistrates learned that Paul was a Roman citizen they sent word to have him released "quietly" and for him to leave the city.—Acts 16.

In Thessalonica the Jews raised up against Paul a great mob and caused an uproar throughout the city and assaulted the house where Paul was staying and took him before the rulers and made charge as follows: "These that have turned the world upside down are come hither also; whom Jason hath received: and these all do contrary to the decrees of Caesar, saying that there is another king, one Jesus." (Acts 17: 6, 7) Paul proceeded to Berea, where the mobsters of Thessalonica came to stir up the people against the work of Paul.—Acts 17: 13.

In Achaia, where Gallio was the provincial governor, the Jews interfered with Paul's preaching activity and took him before Gallio and charged him with insurrection and sedition. On the trial at the close of the state's evidence, Gallio, presiding as magistrate, threw the case out of court because it developed that it was not sedition but a matter of the Bible and God's Law to which the accusers bound themselves in claiming to be subject to it. Gallio said: "If it were a matter of wrong or wicked lewdness, O ye Jews, reason would that I should bear with you: but if it be a question of words and names, and *of your law*, look ye to it; for I will be no judge of such matters. And he drave them from the judgment seat."—Acts 18: 12-16.

On his arrival in Jerusalem, a great tumult was caused by his enemies and he was given permission to speak in his defense at some length before the crowd and they became greatly enraged, and loudly cried, "Away with such a fellow from the earth: for it is not fit that he should live." (Acts 22: 22) They had previously voiced their objection to his preaching the gospel, when they "stirred up all the people, and laid hands on him, crying out, Men of Israel, help: This is the man, that teacheth all men every where against the people, and the law, and this place." (Acts 21: 27, 28) There-

upon Paul was arrested, and because he knew he could not obtain a fair trial, due to prejudice, he demanded a change of venue by claiming the benefits of his Roman citizenship. He said to the centurion, "Is it lawful for you to scourge a man that is a Roman, and uncondemned?" (Acts 22: 25) When word of this reached the chief captain, it was decided that they should be careful how they dealt with the legal rights of Paul and held him for preliminary hearing before the council and then sent him to Caesarea to be heard by Felix the Roman governor. When it developed, before Felix, that the matter involved a question of the Law of Almighty God, with which he could have nothing to do, the religious high priest employed an orator and politician, Tertullus, as special prosecutor of Paul before the governor for the purpose of forcing the charges through to conclusion. Tertullus said, "For we have found this man a pestilent fellow [*margin*, a plague], and a mover of sedition among all the Jews throughout the world, and a ring-leader of the sect of the Nazarenes." (Acts 24: 5) Felix was succeeded by Festus, as governor, who attempted to persuade Paul to have his case tried in Jerusalem. "Then said Paul, I stand at Caesar's judgment seat, where I ought to be judged: to the Jews have I done no wrong, as thou very well knowest. For if I be an offender, or have committed any thing worthy of death, I refuse not to die: but if there be none of these things whereof these accuse me, no man may deliver me unto them. I appeal unto Caesar. Then Festus, when he had conferred with the council, answered, Hast thou appealed unto Caesar? unto Caesar shalt thou go." —Acts 25: 1-12.

While Paul was in bonds under Festus, King Agrippa came on a visit and Paul explained to him concerning his conversion and the details concerning the gospel that he was now preaching. He was thereafter sent to Rome aboard a boat sailing for Italy.—Acts 26: 1-32; 27: 1.

At Rome, pending the disposition of his appeal, Paul was given partial liberty. "And Paul dwelt two whole years

in his own hired house, and received all that came in unto him, preaching the kingdom of God, and teaching those things which concern the Lord Jesus Christ, with all confidence, no man forbidding him." (Acts 28: 30, 31) Paul was ultimately discharged by Caesar and acquitted of the crime of sedition and continued to preach the gospel without compromise to the day of his death.—2 Timothy 4: 16, 17, 6-8.

His life course demonstrates that he 'rightly divided the word of truth' and 'rendered the things that were Caesar's to him, but the things that were God's to none other but God'. This shows that even the Roman Empire, authoritarian though it was, refused to surrender the rights of its citizens, prized above all other heritages of the day and thus guaranteed citizenship as a bulwark against religious prejudice.

We submit therefore that in this *land of the free and the home of the brave* where citizenship is reputed to carry many more privileges, immunities and rights than in any other nation under the sun, the courts should be as liberal toward true and faithful Christians as the Roman government was to the faithful apostle Paul. Indeed, Mr. Justice Jackson, speaking for this Court, in *Edwards v. California*, 314 U. S. 160, 182-186, said: "The power of citizenship as a shield against oppression was widely known from the example of Paul's Roman citizenship which sent the centurion scurrying to his higher-up with the message: 'Take heed what thou doest: for this man is a Roman.' I suppose none of us doubts that the hope of imparting to American citizenship some of this vitality was the purpose of . . . the Fourteenth Amendment." In that the Justice recognizes the acts of the apostle Paul as worthy of approval by this Court.

If this same message preached by the apostle was not considered by the highest Roman court as sedition, then with greater force of reason it must be said that the same message proclaimed in this day does not constitute sedition and unlawful conduct of such character as warrants denial of rights, privileges and immunities of citizenship secured

under the Fourteenth Amendment against abridgment by the state. The reason that the Roman government did not allow the practice of that faithful representative of Jesus Christ to be proscribed was because he had not abused his privilege of citizenship and he had stayed entirely within the bounds of the Scriptures. The high tribunal held that inasmuch as the controversy between Paul and his accusers depended upon the construction and application of God's Word, the Bible, the Roman courts would not lend themselves to the prosecution; that such courts would intervene to protect the rights of a Roman citizen. Paul denied that he was guilty of sedition and in answer to the charges said: "And they neither found me in the temple disputing with any man, neither raising up the people, neither in the synagogues, nor in the city: neither can they prove the things whereof they now accuse me."—Acts 24: 12, 13.

In *Holy Trinity Church v. United States*, 143 U. S. 457, this Court declared in plain terms that the United States "is a Christian nation". The United States has always recognized the law of Almighty God as supreme; that His law is superior to the law of the State. In that opinion Mr. Justice Brewer, after a review of the authorities and history, among other things said: "These and many other matters which might be noticed add a volume of unofficial declarations to the mass of organic utterances that this is a Christian nation."

Judge Cooley says in this connection: "Nor, while recognizing a superintending Providence, are we always precluded from recognizing also, in the rules prescribed for the conduct for the citizen, the notorious fact that the prevailing religion in the States is Christian. . . . It is frequently said that Christianity is a part of the law of the land."—*Constitutional Limitations*, 5th Ed., Vol. 2, pp. 975, 976.

In order to show this Court that the facts in the cases at bar—Cummings, Benoit and Taylor—are identical with the facts in the cases of the Lord Jesus Christ and of His

apostle Paul, we compare now the doctrines advocated by Jesus and Paul with those that are claimed here to be seditious and show thereby that the case of Paul is directly in point and controlling because the facts and charges are the same.

We consider first the objection to the doctrine preached by appellants raised by the court below:

" . . . Appellant and his co-workers are going about the country and into the homes of the people, of low and high degrees of intelligence, and all races, advocating disobedience to all laws and disrespect for and disloyalty to all governments, if perchance the particular law or the nature of the government in his opinion is not in accord with Theocracy. . . .

"The doctrine is preached by this appellant that the laws of the land should not be obeyed if they conflict with what the believer thinks is the law announced by Jehovah. This would sanctify the reasons for disobeying all human law, regardless of the soundness of the reasons, selecting passages here and there from the Bible, and lifting them out of their context and setting to support the belief." Taylor Record, pages 156, 158.

The controlling opinion relies upon the statement of the Lord Jesus, "Render therefore unto Caesar the things which be Caesar's, and unto God the things which be God's." (Luke 20:25) In this matter the court below has indulged in *private* interpretation of the Scriptures, which is 'wresting the word of God'.—2 Peter 3:16.

Here let it be borne in mind that by thus invoking the words of Christ Jesus and relying upon the Bible as authority, the Supreme Court of Mississippi judicially subjects and binds itself to and by all other commands contained in the Bible.

Christ Jesus knew that He was confronted by His enemies who were sent to trap and 'frame' him in the same

manner that the complaining witnesses in the Taylor case were used to trap Taylor. Jesus answered their question with a question and followed that with the statement, "Render therefore unto Caesar the things which be Caesar's, and unto God the things which be God's." Jesus did not say and he did not mean that Christians should submit to every decree of Caesar, but rather that God's laws were supreme and that the Christian would obey all laws of the land that were not in conflict therewith.

The Supreme Court of Mississippi, in effect, *privately* (i. e., for its own purpose, instead of for the Creator's purpose) interprets and changes the language of Jesus to say: 'Render unto Caesar the things that are Caesar's AND UNTO CAESAR THE THINGS THAT ARE GOD'S.' In this instance the court below proves itself guilty of that whereof it accuses the appellants, to wit, "selecting passages here and there from the Bible, and lifting them out of their context and setting to support the belief."

The life course of Christ Jesus in preaching the gospel under adversity and persecution clearly indicated how He interpreted that statement to mean that God's Law was Supreme. This He proved by refusing to submit to decrees of Caesar. Let it here be well noted that the court below overlooked the fact that the very charge brought against Jesus when He was on trial was "forbidding to give tribute to Caesar". (Luke 23: 2) Because Jesus taught the Truth, refusing to yield to the dictates of Caesar, The State, which would cause Him to violate His conscience, He was accused of sedition, convicted thereof on perjured testimony, sentenced to hang and was hanged on a tree, giving up His life. It is authoritatively said that no prophecy is of any *private* interpretation. (Genesis 40: 8; 41: 16; Deuteronomy 29: 29; Daniel 2: 19-22, 28, 47; 2 Peter 1: 20) By recording in the Bible the course of action of His faithful servants and witnesses, *Almighty God has interpreted* the commands of His own Laws, so as to remove any doubt as to the course of action to be taken by true Christians. The apostles con-

sistently emphasized the Supreme Law of God when they said to the courts: "We ought to obey God rather than men" (Acts 5: 29) and "Whether it be right in the sight of God to hearken unto you more than unto God, judge ye." —Acts 4: 19.

There is no intimation in the evidence that any of the appellants told anyone to disobey any law or showed any disrespect to the government or advocated disloyalty. This conclusion of the court below is manifestly based upon the fact that the appellants testified that they could not discontinue preaching the gospel because to do so would be a violation of God's Law, which commanded them to preach and that, since God's Law is Supreme, they must be obedient thereto and suffer the consequences inflicted by the State.

The Court below says this is treason and sedition. The attitude thus taken by Jehovah's witnesses is identical with that taken by Christ Jesus and His apostles who, under similar circumstances, insisted that their obedience was FIRST to Almighty God, 'We must obey God rather than men.' There is no evidence that Jehovah's witnesses refused to obey any law *except* the unconstitutional demands of their persecutors to discontinue distribution of the literature, to salute the flag and to stop preaching the gospel; but such commands and unreasonable demands are *not laws*.

It is here that demands of men and the Law of Almighty God conflict. However, the "law" of man in this instance must yield to the commandments of Almighty God, primarily because God's Law is Supreme, secondarily because the "law" under which the commands were given is unconstitutional.

Jehovah's witnesses always obey God's Law, regardless of the consequences. But this is neither sedition nor can it be considered as advocating the overthrow of the government, disloyalty or any of the evils condemned by the statute. If so, Mr. Justice Blackstone and Judge Cooley, relied on as authority by jurists the world over, could be prosecuted if they were alive today and attempted to distribute their respective works on constitutional law in the State

of Mississippi. Mr. Justice Blackstone said that God's law was supreme and, among other things, declared: "No human laws are of any validity if contrary to this [the Divine Law] . . . to be found only in the Holy Scriptures. . . . No human laws should be suffered to contradict these." (Blackstone, *Commentaries*, Chase 3d ed., pp. 5-7) See also Cooley, *Constitutional Limitations*, 8th ed., p. 968.

Mr. Justice Brandeis declared, in his concurring opinion in *Whitney v. California*, 274 U. S. 57, that even the advocacy of the violation of law did not constitute and could not be considered as treason or sedition, and such advocacy could not and did not present a clear and present danger permitting punishment, unless in connection therewith immediate force and violence was advocated.

In relation to the obedience to the laws of the land as compared with the laws of Almighty God, Jehovah's witnesses stand in the same position as do the Lord Jesus Christ and His apostle Paul and others, when on earth, who blazed the trail for Jehovah's witnesses to follow ever thereafter. They considered themselves as ambassadors of the Creator in a foreign land and that their allegiance was primarily to Jehovah God, which is demonstrated in consistent and persistent preaching of the gospel of God's Kingdom, the establishment of which is the only hope of the world. These men consistently obeyed all laws of the land wherein they dwelt that did not conflict with the Law of Almighty God and did not cause them to violate their conscience or covenant with their Maker.

In the indictment in the Taylor case complaint is made that the booklets *Refugees* and *End of Axis Powers—Comfort All that Mourn* are seditious because they state that the kingdoms and nations of this world are under the control of the Devil, and that such world is composed of political, ecclesiastical and commercial elements which will be destroyed at Armageddon. The Bible plainly says, at Revelation 16:14, 16, that the 'spirits of devils go forth unto the kings of the earth and of the whole world, to gather

them to the battle of the great day of God Almighty at Armageddon—thereby showing invisible demon powers (i. e., “spirits of devils”) directing the present course of all nations of the world. In agreement with this the Bible further says that the world (organized governments) is under the control and influence of the devil. (John 12:31; John 14:30; 2 Corinthians 4:4; Revelation 12:9, 12, 17) The text of 1 John 5:19 reads: “And we know that we are of God, and the whole world lieth in wickedness [in the evil one, *A. R. V.*].” The Bible also points out very plainly that kingdoms of this world are to be ‘broken in pieces and consumed’ *by God’s kingdom* (Daniel 2:44); and this is corroborated in God-given prophecies of Revelation, Jeremiah, Ezekiel, Isaiah and other prophetic books of the Bible. But the literature plainly points out that such destruction will be an ACT OF GOD and that Jehovah’s witnesses and all other human creatures will have no part whatsoever in such destruction, and they are counseled against the use of force.

Certainly it is not sedition, nor can it be said to be advocating overthrow of the government by force and violence, to proclaim the doctrines of the Scriptures to the people, as did Jesus and His apostles. (Matthew 10:7; 28:18-20; 1 Corinthians 9:16) All who recognize God’s Word, the Bible, as the guide for Christians must admit that Jehovah, the Almighty God, promises to destroy Satan and his entire organization. Who would want to fight against God by trying to prevent the proclamation of His message by His people that He is now about to perform such act? The words of the ancient judge, Gamaliel, recorded at Acts 5:37-39, showing that such is fighting against God, as well as the words of the Almighty God at Psalm 2:10-12, might well be seriously considered by all who put themselves in the way of carrying out of God’s commands: “Now therefore be wise, O ye kings; be instructed, ye judges of the earth. Serve Jehovah with fear, and rejoice with trembling. Kiss the Son, lest he be angry, and ye perish in the way,

for his wrath will soon be kindled. Blessed are all they that take refuge in him."—*American Revised Version*.

An additional objection to the doctrines preached by the appellants in these three cases is stated by the court below as follows:

" . . . Aside from the other elements contained in the statute, it can readily be understood why the jury might conclude that what was said and done here, and the reasons behind the arguments, would reasonably cause such refusal to salute, honor or respect the flag. That is conclusively shown in the cases above cited* where children of the members of this sect choose to be expelled from school rather than salute the flag. There were children present on the occasion at the home of Mrs. Joyner." Taylor Record page 161.

The court below also says:

" . . . What the statute does prohibit is the going about into the homes and among the people, and by affirmative teaching and action, attempting to persuade the people, at this tragic time, to have disrespect for and disloyalty towards the flag and the state and the nation, and to evince an attitude of disobedience to the laws of the land, thereby undermining the war efforts of the state and national governments."—Record page 130 (Cummings).

Judge Griffith, concurring to the above, says:

* *Minersville Dist. v. Gobitis*, 310 U.S. 586; *People v. Sandstrom*, 279 N.Y. 523, 18 N.E. 2d 840; *Leoles v. Landers*, 302 U.S. 656 (dismissing appeal from 184 Ga. 580, 192 S.E. 218); *Hering v. State Bd. Ed.*, 302 U.S. 624 (dismissing appeal from 118 N.J.L. 566, 194 A. 117); *Nichols v. Lynn*, 297 Mass. 65, 7 N.E. 2d 577; *Barnette v. West Virginia State Bd. of Ed.*, 47 F. Supp. 251; *Gabrielli v. Knickerbocker*, 306 U.S. 621 (dismissing 82 P. 2d 391).

"Teaching that to salute the National flag is an act of idolatry, and that the consequences of such an act is eternal damnation, is a pointed symptom of the disease which lies at the bottom of the subversive and destructive doctrines which this appellant and his co-workers are seeking to spread in our state in this time of war, the result of which means everything to us as a state and nation." Record page 131 (Cummings).

We should like to call the Court's attention to the fact that the appellants testified that they respected the flag and recognized it as a symbol or emblem of the government and the things for which the government stood, but that they could not salute the flag because to do so would be, *to them*, a violation of God's law and their covenant with Him which would result in their everlasting destruction. Here we point out that the appellants testified that there is a difference between one in a covenant, such as each of them, and one not in a covenant with Almighty God. To one not in such a covenant, who desires to salute a flag, it is his concern entirely and Jehovah's witnesses do not desire to interfere with the exercise of that one's right to salute the flag. Therefore no fair-minded person can sanely contend that the act and conduct of appellants amounted to sedition or disrespect to the flag. Even if they were requested to salute the flag, their refusal in the circumstances would not be seditious. They testified that they did not teach but merely explained the reason of *their* stand on the matter whenever it was brought up by others and an explanation asked by others. The undisputed evidence, and the literature, does not say that the people should not salute the flag, but merely explains that Jehovah's witnesses, as true Christians, in a covenant with Almighty God, of faithfulness, could not so salute without violating said covenant.

In the days of Paul the apostle the Israelites objected not only to saluting flags, symbols and standards, but even protested to the presence of the Roman insignia in the holy

city of Jerusalem in the days of Pontius Pilate, the resident governor of Judea, as recorded by the Jewish historian, Josephus, in his *Antiquities*, Book xviii, 3, 12, and *Wars of the Jews*, ii, 9, 2-4, where it is pointed out that the Jews raised such a vigorous protest when the Roman soldiers brought the Roman emblems and flags into Jerusalem that Pilate yielded to their demands and the standards were ordered withdrawn and taken back to Caesarea. Objection was also urged when the Roman Eagle was placed on one of the Roman state buildings occupied by the resident governor in Jerusalem. See McClintock and Strong, *Cyclopedia*, Vol. VIII, p. 200.

There is no record that Paul was prosecuted for refusal to salute the flag, but it is plain that the Roman government did not consider it seditious to refuse to honor the presence of the Roman flag in Jerusalem.

The position of Jehovah's witnesses on the flag-salute question is the position of all true Christians since the day Jesus Christ was on earth. It is a sincere position from which they cannot change without suffering everlasting death as a result of their violating their covenant with Jehovah, the Almighty God. The same position was taken by the three faithful Hebrews, Shadrach, Meshach, and Abednego. (Daniel chapter 3, particularly verses 16-18) The same position was taken by Jehovah's prophet Jeremiah, as heretofore pointed out. Mordecai, Jehovah's faithful servant, took the identical position while at the king's palace at Shushan in ancient Persia. (Esther 3:1-6) Many other faithful witnesses of Jehovah likewise maintained their position of trust, as indicated at Hebrews, chapter 11; Exodus, chapters 5 to 15, inclusive; Joshua, chapters 6 and 8; Judges 6:25-32; 1 Samuel 17:45-54; 2 Chronicles 20:14-24; Matthew 4:1-10; Acts 5:17-42; chapter 7; Revelation 1:9.

It is objected that Jehovah's witnesses say they are "neutral" and that no person in a covenant with Almighty God can bear arms for one political government as against another. In this connection the Court's attention is again

called to the provisions of the Selective Training and Service Act and the Presidential Regulations thereunder exempting from military training and service those having conscientious objections to military service, and *wholly exempting* also every ordained minister, such as priests, pastors, rabbis, and even divinity-school *students* preparing to perform their full-time life work as respondents to a higher calling to serve their fellows in matters spiritual and godly. Therefore the claim that Jehovah's witnesses are seditious because of their "neutrality" and refusal to bear arms is altogether hypercritical, without merit, and deserves no serious consideration.

In this connection it is respectfully drawn to the attention of the Court that appellants' testimony shows that Jehovah's witnesses are not political; they do not use nor advocate use of carnal weapons against any organization and they do not advocate violent overthrow of the government.

Jehovah's witnesses do not interfere with the nation's program to arm and do not object to other persons bearing arms. Jehovah's witnesses have nothing to say as to action of others, not in a covenant to serve Jehovah, the Almighty God. They consider this an individual matter entirely, and they do not interfere therewith.

This is exactly the same position taken by Jehovah's witnesses in times of old, whose course of action is recorded in the Bible. Witness the fact that Abraham, "the father of the faithful," refused to indulge in war between the surrounding heathen nations; also, that Paul, a Roman citizen, imitated Christ Jesus and His other apostles and did not bear arms in behalf of the Roman military government.

Wholeness, exclusive singleness of purpose and obligation of a covenant-bound servant of Almighty God is uniquely emphasized by Paul in his letter to Timothy, as follows:

"Labour as a good soldier of Christ Jesus. No man,

being a soldier to God, entangleth himself with *secular businesses* [the affairs of this life, *King James Version*]; that he may please him to whom he hath engaged himself."—2 Timothy 2:3,4, *Douay* (Roman Catholic approved) *Version*.

This position is taken essentially because distinct and very real obligations imposed by their covenant-relationship with their Maker removed them from the world and placed them in a position as ambassadors for God's Government of Righteousness.*

We submit therefore that the facts and circumstances shown in these records of the course of action taken today by Jehovah's witnesses is identical with the facts and circumstances concerning the course of action taken by the faithful apostles and other servants of Jehovah whose cases are recorded in God's Word, and that on the basis of such authority the indictments against the appellants here should be dismissed, because of abridging their rights of freedom of conscience and of preaching the gospel of the Kingdom of Almighty God—which is their way of exercising their freedom of worship—according to the dictates of conscience.

* Compare a like view *successfully* contended for before Congress on behalf of the entire Roman Catholic Hierarchy in the United States: See *Report of Hearings before the Committee on Military Affairs*, House of Representatives, 76th Congress, 3d Session, on H. R. 10132 ("Selective Training and Service Act of 1940"), July 30, 1940—Statement of the Rt. Rev. Msgr. Michael J. Ready, General Secretary of the National Catholic Welfare Conference, Washington, D. C., pages 299-305.

See, also, "More Deferment Asked for Catholic Workers," editorial in *The Christian Century* (Chicago), Vol. LX, No. 12 (March 24, 1943), p. 349 et seq.; and *Catholic Action* (Washington, D. C.), March 1943 issue.

G

Many recent holdings of the courts sustain the right of appellant to distribute literature and to speak the words complained of, under the guarantee of freedom to worship ALMIGHTY GOD.

This matter has been thoroughly discussed and briefed in the companion case of *Taylor v. State of Mississippi*, under Point One-G, pages 59 to 62, to which reference is here made and such argument incorporated as though printed at length herein.

We have searched the reports in vain for a case where some minister of any religious or Christian organization has been charged with sedition because of preaching the gospel of God's Kingdom as the only hope for mankind and have been unable to find any except the case of *McKee et al. v. State of Indiana*, reported in 37 N. E. 2d 940. In that case the appellants, Jehovah's witnesses, were charged by affidavit with a violation of the riotous conspiracy statute of the State of Indiana in assembling together at night-time for a Bible study and study in the Watchtower literature, for the purpose of unlawfully, purposely, maliciously inciting the people of Indiana against all forms of organized government and disrespect for the flag of the United States of America. At the trial evidence was offered of the identical nature involved in these cases. It was established that Jehovah's witnesses advocated that a Christian in a covenant with Jehovah God could not salute any flag. This was contended to be seditious. It was established, as a basis for conviction, that Jehovah's witnesses advocated that Jehovah God would in His due time destroy all kingdoms of this world in His 'battle at Armageddon'. This was contended to be a violation of the statute. The evidence also showed that it was advocated by Jehovah's witnesses that God's Law was Supreme and that a Christian in a covenant with Jehovah God must "obey God rather than men" when

the laws of man were at variance with the Law of God. This was contended to be seditious. The Supreme Court of Indiana set aside the convictions on the ground that they were contrary to law and said, "The only claim of an offense under this Act is that the literature advocates the overthrow of all human governments. If this be conceded nevertheless it is not shown to advocate or incite such overthrow by the use of force or violence. This is necessary to constitute the offense. The evidence therefore is insufficient to sustain the verdict if it is based on this statute."

In 1940 Jehovah's witnesses were prosecuted by an indictment filed in the Harlan County Circuit Court of Kentucky for an alleged violation of the sedition statute of that state because the literature which they were alleged to have distributed advocated the establishment of a government "by one Jehovah". For the purpose of enjoining future threatened repetitions of these illegal prosecutions, Jehovah's witnesses filed an action in the United States District Court for the Eastern District of Kentucky. A three-judge court was impaneled and heard evidence and reached a conclusion, after a six months' review of more than one hundred pieces of the Watchtower Society literature, that they did not constitute a violation of the sedition statute and that Jehovah's witnesses were entitled to the injunction prayed for. This opinion is reported. See *Beeler v. Smith*, 40 F. Supp. 139.

On March 22, 1938, the Appellate Division of the Supreme Court of South Africa, in the case of *Magistrate of Bulawayo v. Oliver Maidstone Kabungo*, held that fourteen publications, mentioned in the opinion, published by the Watch Tower Bible & Tract Society, containing the same doctrines and opinions assailed in the cases at bar, did not violate Section 62 of the Sedition Act of Southern Rhodesia, No. 41 of 1936, and ordered the books released that had been impounded under said sedition act. In that case, the Court said:

"I am therefore of opinion that the word 'disaffection' must be construed in section 2 of the Rhodesian Act in the sense above suggested, viz., as meaning discontent or dissatisfaction tending to, or accompanied by, the use of force, tumult, riot, insurrection, or breach of the peace.

"I come now to the second main question, viz., whether the publications are expressive of an intention to excite disaffection in this sense of the word; in other words, to put it badly, does the writer intend to incite people to use force against the government, or to revolt, and to commit breaches of the peace? I may say at once that in my opinion the writer had no such intention, and his books are not expressive of such an intention. He is a religious propagandist, burning with the zeal of his convictions. He condemns many things in modern political, ecclesiastical, and commercial life; and he quotes extensively from the Bible, mainly from the prophets. He may perhaps intend to inspire his readers to look with disfavor and disapprobation on all modern forms of government, but nothing could be further from his mind than to advocate the use of force against any government. The burden of his teaching is, 'Come ye out from amongst them, for they will be destroyed by Jehovah.' *Mr. Hoexter* freely and fairly admits that the books do not indicate an intention of inciting to fight, and rightly so. But, as *Mr. Beadle* points out, the matter goes much further than that, for the author, *Rutherford*, expressly warns his readers not to use force. Thus in the volume "Kingdom" he writes (p. 10):

'Our faith forbids us to engage in war or any other enterprise that would work harm to mankind.'

In "Government" (p. 247) he states that:

'What is said here against the various forms of government is not said with a view to provoking revolution.'

So again in "Supremacy" (p. 51) he writes:

'Every nation has laws, and every citizen of such nation must obey those laws unless the law is in direct violation or contravention of God's law.'

There are many similar passages to which Mr. Beadle has referred the Court.

"My conclusion is therefore that the books are not expressive of an intention to excite disaffection in the sense above stated by me."

We submit that this case is controlled by *Cantwell v. Connecticut*, 310 U. S. 296. Jesse Cantwell was convicted under the fifth count of common law breach of the peace. In setting aside the conviction Mr. Justice Roberts said:

"Decision as to the lawfulness of the conviction demands the weighing of two conflicting interests. The fundamental law declares the interest of the United States that the free exercise of religion be not prohibited and that freedom to communicate information and opinion be not abridged. The state of Connecticut has an obvious interest in the preservation and protection of peace and good order within her borders. We must determine whether the alleged protection of the State's interest, means to which end would, in the absence of limitation by the federal Constitution, lie wholly within the State's discretion, has been pressed, in this instance, to a point where it has come into fatal collision with the overriding interest protected by the federal compact. . . .

“ . . . Equally obvious is it that a state may not unduly suppress free communication of views, religious or other, under the guise of conserving desirable conditions. Here we have a situation analogous to a conviction under a statute sweeping in a great variety of conduct under a general and indefinite characterization, and leaving to the executive and judicial branches too wide a discretion in its application. . . .

“We find in the instant case no assault or threatening of bodily harm, no truculent bearing, no intentional discourtesy, no personal abuse. On the contrary, we find only an effort to persuade a willing listener to buy a book or to contribute money in the interest of what Cantwell, however misguided others may think him, conceived to be true religion.

“In the realm of religious faith, and in that of political belief, sharp differences arise. In both fields the tenets of one man may seem the rankest error to his neighbor. To persuade others to his own point of view, the pleader, as we know, at times, resorts to exaggeration, to vilification of men who have been, or are, prominent in church or state, and even to false statement. But the people of this nation have ordained in the light of history, that, in spite of the probability of excesses and abuses, these liberties are, in the long view, essential to enlightened opinion and right conduct on the part of the citizens of a democracy.

“The essential characteristic of these liberties is, that under their shield many types of life, character, opinion and belief can develop unmolested and unobstructed. Nowhere is this shield more necessary than in our own country for a people composed of many races and of many creeds.”

The most that can possibly be made of the appellants' statements—written or oral—and activity is that it is hereby against the doctrines of the “recognized” religions.

In the Holy Roman Empire and in the early days of the British Empire, heresy was regarded as a crime against the state because the "recognized" religion was incorporated in and made a part of the state. Heresy was not recognized as a crime under the Roman law until Constantine accepted the Roman Catholic faith, whereupon he promptly enacted, pursuant to the concordat made with the "church of Rome", incorporated into the Roman corporate state, several severe laws for the repression of heresy which were continued into the Justinian Code. Heresy then became considered as a crime against the state, akin to sedition. The penalties for the infraction of the laws prohibiting heresy were very severe because, as above stated, the crime was considered a crime against the state. These laws were enacted in other parts of the Holy Roman Empire and were strictly enforced until the oppressive papal yoke was thrown off by the people in the Reformation.

The doctrine of the "separation of church and state" stopped the prosecutions for heresy in Great Britain and in many countries on the continent of Europe. Ever since the Declaration of Independence and the adoption of the Constitution and the Bill of Rights of the United States, the people of this nation have consistently adhered to the doctrine of "separation of church and state", therefore the nation has consistently refused any thought of prosecutions for heresy.

In America, one who in the eyes of religionists is a *heretic* has just as much constitutional right to speak freely on matters of his conscience and opinions which he holds dear unto himself, as does any member of any "recognized" religion.

An examination of the literature of the Watch Tower Bible and Tract Society—publishers for Jehovah's witnesses—shows clearly that it is based exclusively upon the Bible; and if this Court permits these convictions to stand, under the guise of sedition, then a way has been found to authorize the prosecution, conviction and internment for

the offense of "unorthodoxy", "nonconformity," or *heresy*; and the state is found taking an unconstitutional step toward establishment of a state religion in this land of "LIBERTY and justice for all". We do not feel that this Court will yield itself to the extent that it is requested to do by the State of Mississippi. Such a long step would be indeed dangerous and devastating to *this* nation, which Lincoln said was "conceived in *liberty*, and dedicated to the proposition that all men are created equal."

The extent to which the Mississippi sedition statute has lent itself in these cases reminds us of the words of the late Charles F. Amidon, Federal District Judge, in referring to prosecutions under the Espionage Act of 1917:

"Only those who have administered the Espionage Act can understand the danger of such legislation. When crimes are defined by such generic terms, instead of by specific acts, the jury becomes the sole judge, whether men shall or shall not be punished. Most of the jurymen have sons in the war. They are all under the power of the passions which war engenders. For the first six months after June 15, 1917, I tried war cases before jurymen who were candid, sober, intelligent business men, whom I had known for thirty years, and who under ordinary circumstances would have had the highest respect for my declarations of law, but during that period they looked back into my eyes with the savagery of wild animals, saying by their manner, 'Away with this twaddling, let us get at him'. Men believed during that period that the only verdict in a war case, which would show loyalty, was a verdict of guilty."

THREE

The statute is unconstitutional on its face and as construed and applied because it abridges appellant's right of freedom of the press contrary to the First and Fourteenth Amendments to the United States Constitution.

The admitted facts and the undisputed evidence show that appellant, in the distribution of the literature in question, was engaged in an activity of "the press", protected by the First Amendment, made applicable against abridgment by the states by the Fourteenth Amendment.

In a democracy, written words are just as effective and *necessary* for every person in time of war as in times of peace.

"The pen is *mightier* than the sword"—to win the war as well as the peace!

"How forcible are right words!"—Job 6:25.

"JEHOVAH . . . said, Write the vision, and make it plain upon tablets [booklets or pamphlets], that he may run that readeth it."—Habakkuk 2:2, *American Standard Version*.

The beginning of this democracy and the successful winning of the colonists' revolutionary war can be credited more to a mere pamphleteer than to General Washington.

Penned words of that pamphleteer, vividly describing what was in his heart, stirred a ragged, beaten, hungry army *to take courage*—and **WON THE REVOLUTION!**

It was the winter of 1776. What was left of the battered and outnumbered Colonial Army was retreating across New Jersey. The men were so cold for lack of clothes that most of them were, in Washington's own words, "either naked or so thinly clad as to be unfit for service."

Their only chance for help was the arrival of General Charles Lee; *then Washington learned that Lee had been captured!* The American cause seemed doomed. Men began to desert. Others refused to re-enlist.

One bleak, hopeless night a volunteer, a pamphleteer, aide-de-camp to one of Washington's generals, sat down on a log beside a campfire and, using a drumhead for a table, wrote the words that begin,

"These are the times that try men's souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of his country; but he that stands it now, deserves the love and thanks of man and woman. Tyranny, like hell, is not easily conquered; yet we have this consolation with us, that the harder the conflict, the more glorious the triumph . . ."

Washington ordered those words read to his shivering army. They heard and took heart. Two days later this rabble band dealt a crushing and unbelievable defeat to the British at Trenton.

The young man who wrote the words and passed them on to Washington to help win that war was Thomas Paine, a *pamphleteer* discovered in London by Benjamin Franklin.

This proves beyond all question that the argument, that *any* of the liberties guaranteed by the First Amendment should be curtailed in *time of war*, is the greatest fallacy and the most dangerous, un-American doctrine that can be conceived in the mind of any true American.

Therefore the doctrine that the Bill of Rights can be or is weakened, narrowed, diminished or suspended during a national emergency, is subversive, destructive of the government and the Constitution itself.

Insofar as the right of freedom of press relates to the freedom of worship, viz., the distribution of sermons on the Bible, a "preaching activity", it is further discussed under Point TWO, supra, page 28 et seq.

The right of freedom of press has been exhaustively briefed and argued under Point THREE in the brief filed in the companion case of *Betty Benoit v. State of Mississippi*, pages 19 to 42, which we incorporate by reference as though printed at length herein.

FOUR

The statute is vague, indefinite, uncertain, too general, fails to furnish a sufficiently ascertainable standard of guilt, permits speculation and amounts to a dragnet in the manner construed by the Supreme Court of Mississippi so as to violate the *due process* and *equal protection* clauses of the Fourteenth Amendment to the United States Constitution.

The terminology of the statute in question is so vague and indefinite that it is difficult to say just what is meant. It gives uncontrolled leeway for those who may be in control so to enforce a statute like this with such arbitrary and harsh discrimination that all free written discussion and free speech can be curtailed by fear of persecution. The statute is so indefinite and ambiguous, as to interpretation to be given it, that it constitutes a violation of the *due process* and *equal protection* clauses of the Fourteenth Amendment. The fact that appellant in carrying on his preaching of the gospel was arrested, convicted and sentenced under the statute is proof conclusive that it constitutes a dragnet. Its declared purposes cannot save it, since it has been framed and applied so as to permit denial of the fundamental rights of freedom of speech, press and worship of Almighty God.

The brief filed in companion case of *Taylor v. State of Mississippi* has adequately covered the argument under this point and so the matter will not be repeated here, but the same is incorporated by reference as though printed at length herein. See Point FOUR, *Taylor* brief, pages 80 to 87.

Conclusion

Jehovah, the Almighty God, more than six millenniums ago, promised to establish through the Messiah a government of righteousness. He will perform that promise in due season. (Isaiah 55:11) Present-day facts viewed in the light of prophecy indicate that the time of fulfillment is imminent. There are many evidences. One is this: Since the end of the first world war the spirit of totalitarianism has again come to the front; that spirit has overrun Europe! It is now striking at the very life of the British Empire and the British people! It is assaulting the walls of the American Republic!

If this attempted application of the statute in question to activity of Jehovah's witnesses (in bearing testimony to the Word and Name of Almighty God as He commands) can be upheld, then all similar attempts may succeed against the people, to take away any and *all* liberty. The Bible plainly shows, therefore, that the only source of relief for the people from totalitarian or authoritarian rule, oppression and suffering will be when Almighty God breaks the yoke of the oppressors in His 'battle at Armageddon' which precedes the completion of His Theocratic Kingdom in the earth—near at hand!

The circumstances in which the people and the nations now find themselves present a clear, serious and immediate danger of everlasting destruction for all time of every one who fails to take his stand on the side of Jehovah God and His Kingdom. The responsibility of Jehovah's witnesses, therefore, is to warn the people that they might flee *now* to the "mountains" of God's Kingdom and there find the only place of safety. Their responsibility can be likened to that of the "weather man" who, knowing that a great storm or tidal wave approaches, is obligated to sound warning to his neighbors and all inhabitants of the territory under his care. Should he fail or refuse to do so, and instead merely gather his own possessions and 'run for his life' without

warning others, he would be guilty of a crime of the worst kind. As one of Jehovah's witnesses, faithful Noah did not keep to himself and his immediate family the knowledge of a similar impending danger, but preached thereof for many years, during which time he prepared the Ark under God's direction as a means of escape and protection from the great deluge. Genesis, chapters 6-8.

God's provision is that His covenant people, Jehovah's witnesses, must sound the warning of the "time of trouble". Should they fail, neglect or refuse to do so, in the manner done by appellants, they would subject themselves to everlasting destruction at the hands of Jehovah's Executioner in His 'battle at Armageddon'. Jehovah's witnesses, therefore, have no alternative when confronted with oppressive laws thrown in their path to interfere with this warning work—done by them under a mandate from Jehovah. In the words of Jesus' faithful apostles they now declare: **WE MUST OBEY GOD RATHER THAN MEN.**

Respectfully and confidently,

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